

United States
Circuit Court of Appeals
For the Ninth Circuit.

P. M. NELSON,

Appellant,

vs.

CARL PATSEL, W. SANDSTREN, GUST.
JOHNSON, CHAS. NELSON, A. SAND-
STRAN, M. W. JOHNSON, PETER
JOHNSON, HUGO DUNDGREN, HARRY
SWANSON, N. P. JOHNSON, GUST.
PETERSON, CHARLES JOHNSON,
JOHN ANDERSON, KNUT ANDERSON,
A. PETERSON, ALBERT JOHNSON,
CARL ANDERSSON, M. NILSSON,
JOSEF NILSEN, JOHAN KARLSEN,
SIGURD I. NILSON,

Appellees.

Apostles on Appeal.

Upon Appeal from the United States District Court for
the Northern District of California,
First Division.

Filed

OCT 21 1915

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur. Title heads inserted by the Clerk are enclosed within brackets.]

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*In the United States District Court, in and for
the Northern District of California, First
Division.*

IN ADMIRALTY.

CARL PATSEL, W. SANDSTREN, GUST.
JOHNSON, CHAS. NELSON, A. SAND-
STRAN, M. W. JOHNSON, PETER JOHN-
SON, HUGO LUNDGREN, HARRY
SWANSON, N. P. JOHNSON, GUST.
PETERSON, CHARLES JOHNSON,
JOHN ANDERSON, KNUT ANDERSON,
A. PETTERSON, ALBERT JOHNSON,
CARL ANDERSON, M. NILSSON, JOSEF
NILSEN, and JOHAN KARLSEN, SI-
GURD J. NILSSON,

Libelants,

vs.

P. M. NELSON,

Respondent.

Praeceptum for Apostles on Appeal.

To the Clerk of the Above-entitled Court:

Please prepare transcript of record in this cause to be filed in the office of the clerk of the United States Circuit Court of Appeals for the Ninth Circuit, upon the appeal heretofore perfected in this court, and include in said transcript the following pleadings, proceedings, and papers on file, to wit:

1. All those papers required by section 1 of paragraph 1 of rule 4 of the Rules of Admiralty of the United States Circuit Court of Appeals for the Ninth Circuit;

2. All the pleadings in said cause, and all the exhibits annexed thereto;

3. All the testimony and other proofs adduced in the cause, including the testimony taken at the trial, all depositions taken by either party and admitted in evidence, and all exhibits introduced by either party, said exhibits to be sent up as original exhibits;

4. The opinion and decision of the Court;

5. The final decree and notice of appeal; [1*]

6. The assignment of errors.

DUNCAN A. McLEOD,
McCUTCHEN, OLNEY & WILLARD,
Proctors for Respondent and Appellant.

[Endorsed]: Filed Sep. 2, 1915. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [2]

Statement of Clerk U. S. District Court.

PARTIES.

Libelants: Carl Patsel, W. Sandstren, Gust Johnson, Chas. Nelson, A. Sandstran, M. W. Johnson, Peter Johnson, Hugo Lundgren, Harry Swanson, N. P. Johnson, Gust Peterson, Charles Johnson, John Anderson, Knut Anderson, A. Petterson, Albert Johnson, Carl Andersson, M. Nilsson, Josef Nilsen, Johan Karlsen, Sigurd I. Nilson,

Respondent: P. M. Nelson.

*Page-number appearing at foot of page of certified Transcript of Record.

PROCTORS.

For the libelants: H. W. Hutton, Esquire.

For the respondent: Duncan A. McLeod, Esquire,
and Messrs. McCutchen, Olney & Willard. [3]

PROCEEDINGS.

1914.

September 26. Filed verified Libel for Shortage in Provisions, in the sum of \$3402.00.

Issued Citation for appearance of respondent, which Citation was, on September 30th, 1914, returned and filed with the following return of the United States Marshal endorsed thereon: "I have served this writ personally by copy on P. M. Nelson this 29th day of Sept., A. D. 1914.

J. B. HOLOHAN,

U. S. Marshal.

By Thos. F. Mulhall,
Deputy Marshal."

October 7. Filed Respondent's Exceptions to Libel.

31. The above-entitled cause this day came on for hearing in the District Court of the United States for the Northern District of California, before the Honorable M. T. Dooling, Judge, on the Exceptions to Libel, and after hearing duly had, the Court ordered that the matter stand submitted.

November 24. Filed Deposition of H. Swanson, taken on behalf of libelants, before Francis Krull, United States Commissioner. [4]

1914.

December 8. The Court this day filed its written order, overruling the Exceptions to Libel herein.

1915.

January 20. Filed Answer to Libel.

February 18. This cause this day came on for trial in the District Court of the United States, for the Northern District of California, at San Francisco, before the Honorable M. T. DOOLING, Judge, and after hearing duly had, it was ordered that the matter stand submitted to the Court for decision, on briefs.

May 27. The Court this day filed a written opinion, in which it was ordered that a decree be entered in favor of each libellant for the sum of \$65.50.

June 7. Filed Decree.

July 13. Filed Notice of Appeal.

19. Filed Bond on Appeal in the aggregate sum of \$1950.00, with the Royal Indemnity Company as Surety.

September 2. Filed Assignment of Errors.

24. Filed one volume of testimony. [5]

In the District Court of the United States, in and for the Northern District of California, First Division.

IN ADMIRALTY—(No. 15,709.)

CARL PATSEL, W. SANDSTREN, GUST. JOHNSON, CHAS. NELSON, A. SANDSTRAN, M. W. JOHNSON, PETER JOHNSON, HUGO LUNDGREN, HARRY SWANSON, N. P. JOHNSON, GUST. PETERSON, CHARLES JOHNSON, JOHN ANDERSON, KNUT ANDERSON,

A. PETTERSON, ALBERT JOHNSON,
CARL ANDERSSON, M. NILSSON,
JOSEF NILSEN, and JOHAN KARLSEN,
and SIGURD J. NILSSON,

Libelants,

vs.

P. M. NELSON,

Defendant.

Libel.

To the Honorable M. T. DOOLING, Judge of the
First Division of the Above-entitled Court.

The libel of the libelants above named, each of whom are seamen and residents of said district, against P. M. Nelson, ship charterer and salmon packer also of said district in a cause of wages, for shortage of provisions, civil and maritime alleges as follows:

I.

That each of the libelants and said defendant is a resident of the northern district of California, within the jurisdiction of the above-entitled court.

II.

That during the month of March, 1914, at the City and County of San Francisco, State of California, the defendant above named hired each of libelants to serve as seamen on an American schooner called the "Roy Somers," of which vessel said defendant was the charterer and operator on all of the times herein mentioned on a voyage from said San Francisco, to be a place called Koggiung in Alaska, there to catch fish for the said defendant and return as seamen on the said schooner to the port of San Fran-

cisco in the [6] State of California, and in pursuance of such hiring libelants each signed shipping articles for such voyage before the United States shipping commissioner in the said port of San Francisco, in which shipping articles it was agreed that defendant would supply each of the libelants with the scale of provisions mentioned and set forth in section 4612 of the Revised Statutes of the United States, and in pursuance of such hiring each of the libelants entered into the service of said defendant on board of said schooner at said San Francisco all as seamen and proceeded in said vessel to said Koggiung, at which place they left said vessel and went on shore and caught salmon for defendant and thereafter returned on board of said vessel as seamen and the said vessel with each of the libelants on board left said Koggiung for said San Francisco, on Sunday, August the 9th, 1914, and arrived in said San Francisco, on Monday, the 7th day of September, 1914, each of said libelants working as a seaman on such return voyage. That on such voyage both to Koggiung and return the said vessel was used for the sole purpose of transporting libelants and supplies to said Koggiung, and bringing salted salmon from said Koggiung to said San Francisco, and never at any time engaged in fishing.

III.

That upon such return voyage the water given by defendant to be used for cooking food for the libelants was at all times bad, to wit, bad for a period of 29 days. That defendant failed to serve to or give to the libelants or any thereof salt port for the

period of 12 days during such voyage, neither of the libelants receiving any salt pork whatever during the same, that neither potatoes or yams were served to or given by defendant as food during said voyage at any time, defendant also failed to give to the libelants or any thereof and canned tomatoes at all during said voyage, and defendant also failed to give to either of the libelants any pease for food during said voyage, and he also failed to give to either of the [7] libelants as food any beans for two days when they were entitled to the same, to wit, on the 31st day of August and the 2d day of September, 1914, that defendant furnished to each of the libelants rice as food for but two days on said voyage, and for a period of 25 days of said voyage he failed to furnish any fruit whatever, and he also failed to furnish to any of the libelants either onions, or pickles, or mustard during any part of the said voyage, and no substitutes permitted by law were given to the libelants or either thereof for any of the above-mentioned articles of food, the said shortage being on the said homeward voyage alone, that no dried fruit was served to any of the libelants during said voyage homeward, nor did they receive any canned meat for any, to wit, four Wednesdays during said voyage or at the last Sunday thereof, or on any other day.

IV.

That by reason of the premises each of the libelants are entitled to have and receive of defendant as wages for such shortage of food and bad quality of water the following amounts respectively:

For bad water.....	\$29.00
For shortage of salt pork.....	\$12.00
For shortage of potatoes or yams.....	\$29.00
For shortage of tomatoes.....	\$ 9.00
For shortage of pease.....	8.00
For shortage of beans.....	2.00
For shortage of rice.....	8.00
For shortage of fruit of every description....	11.00
For shortage of pickles.....	12.00
For shortage of onions.....	8.00
For shortage of mustard.....	29.00
For shortage of canned meat.....	5.00
Or a total of one hundred and sixty-two (\$162.00)	
dollars to each [8] of the libelants or an aggregate	
of three thousand four hundred and two	
(\$3402.00) to all of the libelants.	

V.

That all and singular the premises are true and within the admiralty and maritime jurisdiction of the United States and of this Honorable Court.

Wherefore libelants pray that process in due form of law according to the course of this Honorable Court in cases of admiralty and maritime jurisdiction may issue against the said defendant P. M. Nelson, and that he may therein be cited to appear and answer under oath all and singular the premises aforesaid, and that this Honorable Court will be pleased to decree the payment of the amounts aforesaid with costs, and that libelants may have such

other and further relief as the Court is competent to give in the premises.

H. W. HUTTON,
Proctor for Libelant's.

HARRY SWANSON.

HUGO LUNDGREN.

SIGUR I. NILSSON.

CARL ANDERSON.

MOLKER NILSSON.

W. SANDSTAN.

PETE JOHNSON.

UNO JOHNSON.

A. SANDSTROM.

GUST PETERSON.

GUST JOHNSON.

KNUT ANDERSON.

CHAS. NELSON.

N. T. JOHNSON.

CHARLEY JOHNSON.

ARLT PETTERSON.

CARL PATSEL.

ALBERT JOHNSON.

JOSEF NILSON.

JOHN KARLSON.

By H. W. HUTTON,
Their Proctor.

[9]

United States of America,
Northern District of California,—ss.

Harry Swanson being first duly sworn, deposes and says as follows:

I am one of the libelants above named; I have read the foregoing libel and I know the contents thereof, and the same is true of my own knowledge except as to the matters therein stated on information or belief and as to those matters I believe it to be true.

HARRY SWANSON.

Subscribed and sworn to before me this 22d day of
September, 1914.

[Seal] MARGUERITE S. BRUNER,
Notary Public in and for the City and County of
San Francisco, State of California.

[Endorsed]: Filed Sep. 26, 1914. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [10]

*In the District Court of the United States, in and
for the Northern District of California, First
Division.*

IN ADMIRALTY—No. —.

CARL PATSEL, W. SANDSTREN et al.,
Libelants,

vs.

P. M. NELSON,

Respondent.

Exceptions to Libel.

Comes now P. M. Nelson, respondent above named,
and excepts to the libel of Carl Patsel et al., upon
the ground that said libel does not state facts suffi-
cient to constitute a cause of action against said re-
spondent, or at all.

WHEREFORE, said respondent prays that the
said libel may be dismissed, and that he be hence
dismissed with his costs of suit herein incurred.

D. A. McLEOD,
McCUTCHEN, OLNEY & WILLARD,
Proctors for Respondent.

Service of the within Exceptions and receipt of a

copy is hereby admitted this 19th day of October, 1914.

H. W. HUTTON,
Atty. for Libelant.

[Endorsed]: Filed Oct. 7, 1914. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [11]

*In the District Court of the United States, in and
for the Northern District of California, First
Division.*

No. 15,709.

CARL PATSEL et al.,

Libelant,

vs.

P. M. NELSON,

Respondent.

Order Overruling Exceptions to Libel.

H. W. HUTTON, Esq., Proctor for Libelant.

D. A. McLEOD, Esq., McCUTCHEN, OLNEY
and WILLARD, Proctors for Respondent.

The exceptions to the libel herein are overruled,
and respondent is allowed ten days in which to an-
swer.

December 8th, 1914.

M. T. DOOLING,
Judge.

[Endorsed: Filed Dec. 8, 1914. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [12]

*In the United States District Court for the Northern
District of California, First Division.*

IN ADMIRALTY.

CARL PATSEL, W. SANDSTREN, GUST JOHNSON, CHAS. NELSON, A. SANDSTRAN, M. W. JOHNSON, PETER JOHNSON, HUGO LUNDGREN, HARRY SWANSON, N. P. JOHNSON, GUST PETERSON, CHARLES JOHNSON, JOHN ANDERSON, KNUT ANDERSON, A. PETTERSON, ALBERT JOHNSON, CARL ANDERSSON, M. NILSSON, JOSEF NILSEN and JOHN KARLSEN, SIGURD J. NILSSON.

Libelants,

vs.

P. M. NELSON,

Respondent.

Answer.

To the Honorable M. T. DOOLING, Judge of the
United States District Court for the Northern
District of California:

The answer of the above-named respondent to the libel of the above-named libelants in a cause of wages, civil and maritime, admits, denies and alleges, as follows:

I.

Answering unto the allegations of Article I of said libel, respondent admits that he is a resident of the Northern District of California, within the juris-

diction of the above-entitled court, but is ignorant as to that part of said article alleging that each of the libelants is a resident of the Northern District of California, within the jurisdiction of the above-entitled court, and for that reason demands that strict proof of the same be made.

II.

Answering unto the allegations of Article II of said libel, respondent admits that during the month of March, 1914, at the City of San Francisco, State of California, he hired the above-named [13] libelants to serve as seamen on the American schooner "Roy Somers," of which respondent was the charterer and operator during all the times in said libel mentioned, on a voyage from San Francisco, California, to Koggiung, Alaska, there to catch fish for respondent, and to return as seamen on such schooner to the port of San Francisco, in the State of California. Respondent denies that in pursuance of said hire, but admits that the said libelants did in fact sign shipping articles for such voyage and service before the United States Commissioner in the said port of San Francisco, and admits that in the shipping articles it was agreed that respondent would supply each of the libelants with the scale of provisions mentioned and set forth in Section 4612 of the Revised Statutes of the United States, or lawful or equivalent substitute therefor. Admits that in pursuance of such contract of hire, each of the libelants entered into the service of respondent on board said schooner at San Francisco, and proceeded in said vessel to Koggiung, at which

place they left said vessel and went on shore and caught salmon for respondent, and, thereafter, returned on board said vessel and the said vessel with all of said libelants on board left said Koggiung for said San Francisco on Sunday, August 9th, 1914, and arrived in San Francisco on Monday, the 7th day of September, 1914, and that each of said libelants worked as a seaman on board said vessel on such return voyage. Respondent admits that on such voyage to Koggiung and return the vessel was used for the sole purpose of transporting libelants and supplies to said Koggiung, and bringing salted salmon from said Koggiung to San Francisco, and denies that she never at any time engaged in fishing.

III.

Answering unto the allegations of Article III of said libel, respondent denies that upon such return voyage the water [14] given by respondent to be used in cooking food for libelants was at all times bad, to wit, bad for the period of twenty-nine (29) days, and in that behalf alleges that there was at all times a sufficient supply of good water on board. And if there was any failure in the water supply, it was due to the negligence of the libelants in not properly filling and caring for the water-tanks on board said vessel. That said water-tanks were the same which were used on the northward voyage.

Upon information and belief, respondent denies that there was any failure to serve or to give libelants, or any of them, salt pork for the period of twelve days during said voyage, or that none of the libelants received any salt pork whatsoever during

the same, and in that behalf alleges that said vessel was supplied, not only with salt pork, but ham and bacon, together with salt and fresh fish sufficient to answer for the purpose of said voyage.

Respondent denies that neither potatoes nor yams were served to libelants by respondent during such period, and in that behalf alleges that potatoes were taken from San Francisco on the voyage northward, but that the same could not be preserved in good condition throughout the summer months while libelants were engaged in fishing in Alaska, and that it was impossible to procure in Alaska any potatoes for the downward voyage. That the failure to have any potatoes on said voyage was due to no act of negligence or failure on the part of respondent, but was the result of natural causes over which respondent had no control.

Upon information and belief, respondent denies that there was any failure to give libelants, or any of them, any canned tomatoes during said voyage, and for the same reason respondent denies that there was any failure to give either of libelants, or any of them, any peas for food during the said voyage, and for the [15] same reason respondent denies that there was any failure to give any of said libelants as food any beans for the two days when they were entitled to same, to wit, on the 31st day of August and the 2d day of September, 1914, and in that behalf respondent alleges that if there was any failure to furnish said beans on said days, it was not because said vessel was insufficiently supplied with the same on the commencement of said voyage, but

because of the wastefulness of the cook and libelants throughout said voyage.

Upon information and belief, respondent denies that there was only furnished to each of libelants rice as food but for two days on said voyage, and for the same reason denies that for a period of 25 days of said voyage, respondent failed to furnish any fruit whatever, and for the same reason denies that there was any failure to furnish to any of the libelants either onions, pickles or mustard during any part of said voyage.

Upon information and belief, respondent denies that no substitutes permitted by law were given to libelants, or either of them, for any of the above-mentioned articles of food, and denies that there was any shortage of food on the homeward voyage. For the same reason respondent denies that no dried fruit was served to said libelants during said voyage homeward, and denies that they did not receive any canned meat for four Wednesdays during said voyage, or the last Sunday thereof, or on any other day.

Further answering unto the allegations of said article, respondent alleges that said vessel was fully supplied with sufficient food for said voyage, and if there was any shortage, it resulted from the wastefulness of libelants during said stay in Alaska, and by reason of the inability of respondent to purchase in Alaska full quantities of the required supplies. That the cook of said vessel, one of the libelants herein, was given full authority [16] to order and purchase all of the supplies procurable in Alaska

necessary for the sufficient victualing of said vessel on said voyage.

That said vessel was supplied with salt pork, corn beef, canned meats, fresh and salt pork, ham, bacon, eggs, peas, beans, onions, cheese, butter, pickles, oatmeal, rice, tapioca, pearl barley, prunes, milk, etc.

IV.

Respondent denies each and every of the allegations contained in Article IV of said libel.

V.

Respondent denies that all and singular the premises in said libel stated are true, but admits that they are within the admiralty and maritime jurisdiction of the United States and of this Honorable Court.

WHEREFORE, respondent prays that the above-entitled action may be dismissed with costs.

D. A. McLEOD,
McCUTCHEN, OLNEY & WILLARD,
Proctors for Respondent. [17]

Northern District of California,
City and County of San Francisco,—ss.

P. M. Nelson, being first duly sworn, deposes and says:

That he is the respondent in the within-entitled action; that he has read the foregoing answer and knows the contents thereof, and that the same is true except as to the matters therein stated on information or belief, and as to those matters he believes to be true.

P. M. NELSON.

Subscribed and sworn to before me this 19th day of January, 1915.

[Seal] FRANK L. OWEN,
Notary Public, in and for the City and County of
San Francisco, State of California.

Service of the within Answer and receipt of a copy is hereby admitted this 19th day of January, 1914.

W. H. HUTTON,
Proctor for Libelant.

[Endorsed]: Filed Jan. 20, 1915. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [18]

*In the District Court of the United States, in and
for the Northern District of California, First
Division.*

IN ADMIRALTY.

CARL PATSEL et al.,

Libelants,

vs.

P. M. NELSON,

Defendant.

**Notice of Taking Deposition, and Deposition of
Harry Swanson.**

The defendant above named and his proctors will please take notice that the deposition of Harry Swanson, a libelant in said cause and a witness on behalf of himself and the other libelants therein, will be taken *de bene esse*, before Francis Krull, Esquire, *United Commissioner*, at his office United States postoffice and courthouse building, at the corner of Seventh and Mission Streets in the City and County

of San Francisco, State of California, on Friday, the 23d day of October, 1914, commencing at the hour of three o'clock in the afternoon of *that, at* which time you are notified to be present and put such interrogatories to said witness as you may see fit.

You are further notified, that the cause for the taking of the deposition of said witness is, that he is bound on a voyage to sea.

Dated October 22d, 1914.

Yours, etc.,
W. H. HUTTON,
Proctor for Libelant.

Copy received this 22d day of October, 1914.

D. A. McLEOD,
McCUTCHEN, OLNEY & WILLARD,
Proctors for Respondent. [19]

*In the District Court of the United States, in and
for the Northern District of California, First
Division.*

CARL PATSEL et al.,

Libelants,

vs.

P. M. NELSON,

Defendant.

BE IT REMEMBERED that on Friday, October 23d, 1914, pursuant to notice and order of court filed in the above-entitled cause, at my office in the postoffice and courthouse building, room 308, in the City and County of San Francisco, State of California, personally appeared before me, Francis

Krull, a United States Commissioner for the Northern District of California, to take acknowledgments of bail and affidavits, etc., Harry Swanson, a witness produced on behalf of libelants.

H. W. Hutton, Esq., appeared as proctor for the libelants, and Ira A. Campbell, Esq., appeared as proctor for the defendant, and the said witness having been by me first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth in the cause aforesaid, did thereupon depose and say as is hereinafter set forth.

(It is hereby stipulated that the deposition of Harry Swanson may be taken *de bene esse* before Francis Krull, United States Commissioner for the Northern District of California, and that the said deposition, when written out [20] may be read in evidence by either party on the trial of the cause; that all questions as to the notice of the time and place of taking the same are waived, and that all objections as to the form of the questions are waived unless objected to at the time of taking said deposition, and that all objections as to materiality and competency of the testimony are reserved to all parties.

It is further stipulated that the deposition of Harry Swanson may be taken in shorthand by Herbert Bennett. It is further stipulated that the reading over of the testimony to the witness and the signing thereof is hereby expressly waived.

[Deposition of Harry Swanson, for Libelant.]

HARRY SWANSON, called for libelants, sworn.

Mr. HUTTON.—Q. What is your name?

A. Harry Swanson.

Q. What is your occupation? A. Well, cook.

Q. How long have you been a cook?

A. I have been cook since I have been 14 years old.

Q. How long is that ago?

A. I am 24 years old now; I will be 24 years on November 17th. My name in the old country was not Harry.

Q. It does not make any difference to me what your name was in the old country; I want to know what your name is here.

A. That is my name here, Harry Swanson.

Q. Have you ever cooked at sea?

A. Yes, sir; I cooked at sea since I was 14 years old.

Q. Did you ever cook on the schooner “Roy Somers”?

A. Yes, sir.

Q. She is an American vessel, is she not?

A. Yes, sir. [21]

Q. Where did you cook; on what voyage did you cook on her?

A. From here, San Francisco to Alaska and from Alaska to San Francisco.

Q. What place in Alaska? A. Koggiung.

Q. Did you cook for all hands?

A. Yes, sir; cooked for all hands.

Q. How many men were on the “Roy Somers”?

How many sailors were on the “Roy Somers”?

(Deposition of Harry Swanson.)

A. Altogether we was 27 on the trip going up to Alaska, and 26 on the trip coming home.

Q. Did that include the captain?

A. That included the captain and all.

Q. Now, on the way down from Alaska, what kind of water did you have on her?

A. We had rotten water for cooking. We had some good water, but we could not touch that water; the captain would not let us take it before the last couple of days.

Q. What was the matter with the water?

A. Well, it was rotten. When I cooked with it they could not eat nothing, because there was some big tanks there to put the water in and in those tanks had been some wine—rotten stuff in them before. When the water had been there for a couple of days it was so rotten you could not taste it.

Q. Did you use that water for cooking all the way home?

A. Yes, sir; except a couple of the last days.

Q. Is she an American vessel, the “Roy Somers”?

A. Yes, sir; she belongs at San Francisco.

Q. Do you expect to go to sea pretty soon?

A. Yes, sir. I do not know, maybe.

Q. Are you looking for a job at sea?

A. Yes, sir.

Q. You run on the coast? A. Yes, sir. [22]

Q. Did you have any salt pork on the way home?

A. No, sir; we did not have any salt pork except just a little for pork and beans; just a little, very little.

(Deposition of Harry Swanson.)

Q. What I mean is this: did you ever at any time serve out salt pork to the men as food? A. No, sir.

Q. Was there any on the ship?

A. On the trip home?

Q. That is what I mean, on the trip home.

A. No, sir.

Q. Did you have any potatoes or yams on the trip home? A. No, sir.

Q. Did you have any tomatoes on the trip home?

A. No, sir, no tomatoes.

Q. How about peas. Did you have any peas to make pea soup with?

A. No, sir; I had for the soup—let me see, I had soup for about seven or eight days; either seven or eight days I had pea soup; green peas, I had soup of.

Q. Was that for seven or eight days after you left?

A. After I left up there; for three weeks I did not have any soup.

Q. No pea soup?

A. No pea soup for three weeks.

Q. How about beans?

A. Beans? We were short for seven days; seven days, something like that; either seven or eight days before we came to Frisco, we did not have any beans.

Q. You mean for seven or eight days before you got in? A. Before we got in, yes.

Q. How about rice?

A. Rice we only had for two days; rice for two days.

Q. Did you serve it the two days?

A. I had about six or seven pounds of rice. We

(Deposition of Harry Swanson.)

had rice for two dinners.

Q. Did you have any fruit?

A. No, sir; not for the last 14 days.

Q. Of any kind?

A. No, sir; not of any kind. [23]

Q. Was that for the last 14 days before you got in port? A. Yes, sir; before we got in port.

Q. Did you have any onions?

A. Just a couple of dozen; I had none in the last days.

Q. Was that when you left Alaska?

A. When I left Alaska. I had about 34 or 35 onions when I left Alaska.

Q. Were they ever served out per day, or did you use them for cooking?

A. I had them for the corn beef hash, except once I cooked up onions for the sailors; just a little bit, one night.

Q. Is that the only time they got onions on the way home from Alaska?

A. Yes, sir; the only time they got onions on the way home from Alaska.

Q. Did you have any mustard on the ship at all?

A. The mustard was all gone when we left Alaska; maybe for two or three days I had mustard when we came out.

Q. Did you have any canned meat?

A. Yes, sir; I had some canned meat, but it was gone a week before we came in. Just a little canned meat I gave on Sundays and Wednesdays, very little; just a little bit.

(Deposition of Harry Swanson.)

Q. Did they get the regular allowance?

A. No, sir; they got very little; just a few cans; I gave a little on Sundays and a little on Wednesdays.

Q. How many cans had you when you left Alaska?

A. I had two small cases; there were 48 cans, 12-ounce cans, of roast beef and then I had about one dozen canned corn beef—either 12 or 15 cans of corn beef when I left Alaska, and then I had some roast mutton, about 24 cans—about two dozen cans of roast mutton.

Q. Where were they used?

A. On the trip coming home from Alaska. [24]

Q. I mean, what part of the ship?

A. The same all over; fore and aft the same.

Q. That would be 60 or 63 twelve-ounce cans you had when you left Alaska?

A. Yes, small roast beef cans, but the corn beef cans, they were big, you know, big cans.

Q. How much did they hold?

A. They hold about two pounds, I guess; but the corn beef cans and those roast mutton cans are about two pounds—two pounds, yes.

Q. How many days were you coming home, do you know? A. 29 days.

Q. Do you know what day you left Koggiung?

A. We left Koggiung the 9th of August in the morning, Sunday morning, the 9th of August.

Q. And you got here on what day?

A. We got in here Labor Day, at night, 10 o'clock, the 7th day of September; we got in here about 9 or 10 o'clock.

(Deposition of Harry Swanson.)

Mr. HUTTON.—That is all.

Cross-examination.

Mr. CAMPBELL.—Q. Is this the first time you ever went to Alaska?

A. No, sir; I was up in Alaska last year.

Q. On what ship?

A. In the “C. A. Thayer,” the same owners.

Q. Did you file this same kind of a complaint last year when you got back?

A. No, sir; but we had very little.

Q. You did not bring the same kind of a suit last year?

A. No, sir; we had very little to eat, but we went along any way.

Q. Did you help fit this vessel out before she sailed from here in the spring?

A. No, sir; I did not. The owner does that himself. [25]

Q. When did you join the vessel?

A. I joined right—we left here on the 22d of April, either the 21st or 22d of April, we left San Francisco for Alaska.

Q. When did you join her?

A. I came on board just a couple of days before.

Q. Did you make out the provision list?

A. No, sir.

Q. Did you take an inventory of the food that was aboard of her before you started out to go to Alaska?

A. Yes, sir; he gave me just a store list; he gave me the store list after that when I came aboard.

Q. You checked it up?

(Deposition of Harry Swanson.)

A. I did not check it up; I looked after everything that came aboard, what it was.

Q. You checked it up to see all the stuff on the list came aboard?

A. It came aboard, all we had on the list here at San Francisco.

Q. You checked up the list in San Francisco to see if everything that was on the list came on board?

A. I did not check up the list; some was standing on the list that came aboard; I did not check off the list.

Q. Did you check up the food that was aboard the vessel before she sailed from San Francisco?

A. I know everything was there as soon as we got aboard.

Q. You looked it over to see what you had on board before you sailed from San Francisco?

A. Yes, sir.

Q. You knew when you went out of San Francisco as cook on that vessel, you knew what food there was on board the vessel? A. Yes, sir; I knew that.

Q. You checked it up before the vessel sailed? You counted it up before the vessel sailed?

A. Counted it up. I see everything that was aboard. [26]

Q. Did you know where you were going to when you sailed from here? A. Yes, sir.

Q. To Koggiung? A. Yes, sir.

Q. You had been there before?

A. Yes, sir, I was there last year.

Q. Where could you buy food up in Alaska where

(Deposition of Harry Swanson.)

you were going? A. Mittendorf.

Q. Mittendorf? A. Yes, sir.

Q. That is the principal store up there, is it not?

A. Yes, sir. I forget those other people in those canneries there.

Q. Alaska Packers?

A. Yes, sir, from the packers, that Astoria Company.

Q. Alaska Portland Packing Company?

A. I don't know; they call it the Astoria Cannery up there; I don't know what company it is.

Q. Who owns the principal store up there at Nushagak, Mittendorf? A. Yes, sir.

Q. You have been there? A. Not in Nushagak.

Q. Is there any store at Koggiung?

A. Yes, sir, the packers have a store.

Q. Alaska Packers?

A. Yes, sir, but I have never been there in that store.

Q. When you left here in the spring of the year you knew that your vessel was going to go to Koggiung and fish there, and then come back to San Francisco? A. Yes, sir.

Q. And you knew that you were taking up on your vessel provisions to last you on the voyage up, while you were in Alaska, and while you were coming back to San Francisco, didn't you?

A. I know they could not last.

Q. You knew what you were taking on board was food for that, didn't you? A. Yes, sir. [27]

Q. You knew when you left here you were taking

(Deposition of Harry Swanson.)

up on the vessel sufficient food to last you on the voyage up, while you were fishing in Alaska and to bring you back to San Francisco, didn't you?

A. Yes, sir.

Q. After you checked up the food on your vessel before you left San Francisco in the spring, did you tell the captain, or the owner that there was not sufficient of all these articles of food to last you for the whole voyage and the time you were in Alaska?

A. No, sir, I did not tell him that here in San Francisco.

Q. You did not say anything about that at all?

A. Except potatoes, I told him I had very little potatoes.

Q. Do you know how many potatoes were bought and placed on board that vessel?

A. We got 50 sacks of potatoes on board.

Q. You got 50 sacks of potatoes on board?

A. Yes, sir, we got 40 first, and then we got 10 sacks afterwards—eight 8 or 10 sacks.

Q. Where did you get those 10 sacks?

A. Here in San Francisco.

Q. You say all you had was 50 sacks to start out with? A. Either 48 or 50.

Q. Which was it, 48 or 50?

A. I cannot say exactly, either 48 or 50.

Q. But you made no complaint to the captain, or owner of the ship about there not being sufficient food to take you up to Alaska, last you while you were there, and while you were coming down to San Francisco?

(Deposition of Harry Swanson.)

A. No, sir, I did not make any complaint, before I got up there, I see they could not last.

Q. All the time you were fishing up there you had plenty of [28] food while you were going up?

A. Yes, sir.

Q. Everybody got fat on the trip going up?

A. They did not get fat; we had just right.

Q. Everybody was fed well going up?

A. We did not have more than we want.

Q. Everybody was fed well in Alaska?

A. Except the potatoes.

Q. What became of the potatoes, did they sprout on you?

A. The potatoes were too little; they were too little altogether; they were very bad, too.

Q. Did you have anything to do with the filling of the water tanks in San Francisco before you went up to Alaska?

A. No, sir, I did not have anything to do with it.

Q. You did not have anything to do with that?

A. No, sir.

Q. Did you have any trouble with the water going up?

A. Yes, sir, the water was bad on the trip going up.

Q. Why didn't you sue for that also, the bad water going up? A. Nobody said anything.

Q. Nobody told you to sue for that? A. No, sir.

Q. Who told you to sue for the bad water coming down? A. All hands signed.

Q. All hands signed it up?

(Deposition of Harry Swanson.)

A. Yes, sir.

Q. Where did you sign it up?

A. Up to the fishermen's union.

Q. Who got you to go up there?

A. All the fishermen were up there.

Q. Who was the one that came and got you to go up there?

A. I was cook; they want me to come along up there with them.

Q. They wanted you along up there with them?

A. Yes, sir; because I was cook.

Q. Who was the one that asked you to come, Pastel? A. No, sir.

Q. Patterson?

A. No, sir, they were there the day we got [29] paid off and there was all hands, they want some money for what they had been suffering; they want some money for that, and he would not give them anything,—so they say they want some money for that; the man would not give them anything, Mr. Nelson would not give them anything, any money for it; he said they had to go and see the fishermen's union secretary.

Q. Did you hear all this conversation you are telling about, or is that what somebody told you? Did you hear this conversation with Mr. Nelson, or is this what somebody told you? Did you hear all of this talk with Pete Nelson, or did somebody else tell you about it?

A. They wanted some more money.

Q. Who was it wanted some more money?

(Deposition of Harry Swanson.)

A. All the fishermen.

Q. Where did they ask this, before the shipping commissioner?

A. Yes, sir; they asked before the shipping commissioner.

Q. Before the shipping commissioner?

A. Yes, sir.

Q. Is that when you were signed off?

A. Yes, sir.

Q. Did you sign off before the shipping commissioner?

A. Yes, sir, I signed off before the shipping commissioner.

Q. Who did you complain to about the bad water going up?

A. They complained to me, and I complained to the captain.

Q. To the captain.

A. Yes, sir, and the captain knew it was very bad water himself.

Q. I am asking you who you complained to. When you got to Alaska, was all the water gone?

A. No, sir; we had water when we got up there.

Q. And you had good water aboard when you got up there, didn't you?

A. Yes, sir, in the big tank.

Q. How many tanks were there aboard that vessel that held water?

A. There was one big tank of water; one big tank underneath the deck and then either four or five big tanks had been wine in them before; it was rotten water in that. [30]

(Deposition of Harry Swanson.)

Q. Did you examine them to see whether the wood was rotten or not? A. The water was rotten.

Q. You did not examine them at all?

A. I did not examine them at all.

Q. Don't you know when the ship arrived in port there was still good water in them?

A. There was a little in the big tank.

Q. There was considerable in the big tank?

A. There was a little.

Q. Did you measure to see how much was in the big tank when you got in?

A. I did not measure how much water was left.

Q. Why did you say there was a little?

A. I know there was not much; the captain said there was not much himself.

Q. That is where you got your knowledge, from what the captain said?

A. I said I did not measure it.

Q. You think there were only four or five casks of water? A. Yes, sir.

Q. Which is it, four or five?

A. Maybe there are six.

Q. What is it, four or *four*, or six? You cannot tell, can you? A. I cannot say, exactly.

Q. What is your best recollection? You think there were about four, don't you?

A. I think about five.

Q. You are going to stick on five?

A. Yes, sir; but I am not sure, you know.

Q. How many of those five contained good water? In how many of those five was the water good?

(Deposition of Harry Swanson.)

A. In those five?

Q. Yes.

A. There were those five tanks with rotten water.

Q. All five tanks had rotten water?

A. Yes, sir.

Q. You did not use any of that water?

A. We had to use it.

Q. All five tanks had rotten water in them?

A. It was not tanks, casks, [31]

Q. You call them casks? A. Yes, sir.

Mr. HUTTON.—Give him a chance to answer your questions; you stop him right along.

Mr. CAMPBELL.—Q. Don't you get a chance to do all the answering you want to? A. Yes, sir.

Q. Were were you in this same vessel the year before?

A. No, sir; I was in the "C. A. Thayer," the year before.

Q. Who filled up these water-casks in Alaska for the voyage back?

A. Well, the beach man filled them, and the fishermen filled with all with fresh water.

Q. Who did the work, the fishermen?

A. I do not know; I was not on the boat; I was cook ashore there; I do not know who filled them.

Q. How soon did you go aboard the vessel in Alaska before you left there?

A. Before we left there, I came aboard Saturday afternoon about 4 o'clock and and Sunday morning about 4 o'clock we left Alaska.

Q. While you were in Alaska, had you not used

(Deposition of Harry Swanson.)

water out of these casks? A. Up in Alaska, no.

Q. Not while you were in Alaska?

A. Not me, because I was ashore; I was cooking ashore.

Q. Did any of the sailors aboard the vessel use water out of the casks while they were in Alaska?

A. I do not know.

Q. Do you know whether they used any of the water out of the casks when they were in Alaska?

A. I don't know, maybe the captain used some; he was on board for awhile.

Q. Have you any knowledge about it at all?

A. No, sir.

Q. You do not know anything about it?

A. No, sir.

Q. When did you first complain about the water being bad in the casks?

A. When we came outside, out in the pass. [32]

Q. Out in the pass? A. In the Bering Sea.

Q. Through Unamuck Pass?

A. No, sir, we were not through the pass.

Q. Is that the pass you came through?

A. Yes, sir.

Q. When you came down the pass did you complain about it? A. When we were in Bering Sea.

Q. How soon after you left Koggiung did you first complain about the water being bad?

A. In a week, I guess.

Q. In a week? A. Yes, sir.

Q. The water was good then for the first week?

A. We did not take it from those casks. We had

(Deposition of Harry Swanson.)

some other small ones where there was good water in.

Q. I thought you said you only had five casks aboard and the big tank?

A. We had some barrels; we filled up some clean barrels; there was good water in it.

Q. How many barrels did you have filled up?

A. Four or five big barrels.

Q. How large were the barrels, fish barrels?

A. Yes, sir.

Q. Half barrels?

A. No half barrels; bigger than half barrels; 200 pounds fish in them barrels.

Q. Didn't you use water out of these five or six casks the first week? A. Not at the start.

Q. How soon after you began to use the water out of those casks was it that you noticed it was tainted. How soon after you began to use the water did you notice it?

A. As soon as we started to use it we noticed it was bad water. As soon as we started to use that water the fellows—the water tender said “it was awful bad water.” I said, “Yes, I know it is.”

Q. How many complaints did you ever make to the captain about the water?

A. I don't know. I told him a couple of times there was awful bad water in the tanks. [33]

Q. And he told you to use the water out of the big tank, didn't he?

A. No, he said “we have to use up that water first,” he said, “because we do not know how long a trip we got.”

(Deposition of Harry Swanson.)

Q. Didn't he tell you to take the water out of the big tank?

A. No, sir, excepting for drinking water.

Q. Do you swear to it he did not tell you to go to the big tank to get the water? A. For cooking?

Q. Yes.

A. Yes, sir, I swear to it he did not tell me to take the water from the big tank for cooking before we came down here, about a week before we come in, because he want me to use that water first; he want me to use that water first, that rotten water, because there was a water tender on board there and I had to take what he give me.

Q. You say you did not have any salt pork on the voyage at all? A. Salt pork?

Q. Yes.

A. Yes, a little; we had one pig and I killed that one—

Q. What did you—

Mr. HUTTON.—(Intg.) Let him answer the question.

A. (Contg.) I had two meals out of that pig and then we salted the rest of it, so I could cook up small pieces for the beans. We did not have any salt pork for meals.

Mr. CAMPBELL.—Q. Have you answered all you want to? A. Yes, sir.

Q. Why did you say when Mr. Hutton asked you if you had any salt pork you did not have any?

Mr. HUTTON.—He said he had salt pork for beans, but he never served salt pork out for meals.

(Deposition of Harry Swanson.)

Mr. CAMPBELL.—Let the witness testify.

Mr. HUTTON.—You have no right to state to the witness something he did not say. [34]

Mr. CAMPBELL.—I am not doing so consciously.

Q. Didn't you say you did not have any salt pork on the vessel? A. Yes, sir, we had a little.

Q. You had salt pork? A. We had a little.

Q. You had ham? A. We had bacon.

Q. Did you have eggs?

A. We had rotten eggs; not what we could use; they were rotten.

Q. Rotten eggs? A. Yes, sir.

Q. Did you have a shoulder of pork aboard?

A. Of salt pork?

Q. Fresh pork?

A. We had a little fresh pork to salt.

Q. How many pigs did you have left on the vessel coming down?

A. We had one pig and we killed that as soon as we got out; we had three pigs up in Alaska, but we killed one and one we sold and then we killed one on the trip home.

Q. You killed one in Alaska?

A. Yes, sir, and sold one and killed one on the trip home.

Q. Did you have any canned beef aboard?

A. Yes, sir, we had roast beef.

Q. Roast beef?

A. Yes, sir, and roast mutton and corn beef, but it was not enough.

Q. All used up on the trip?

(Deposition of Harry Swanson.)

A. Yes, sir, all used up before we came in.

Q. There was not any left aboard the vessel when you got back in San Francisco? A. Yes, sir.

Q. You swear to that, do you?

A. Yes, sir, I swear to it except there was some salt corn beef left, about for one meal when we got to San Francisco.

A. For one meal? A. Yes, sir.

Q. But no canned beef at all?

A. No, sir. [35]

Q. You swear to that? A. Yes, sir.

Q. How many times did you burn the beans on the voyage and throw them in the slop bucket?

A. No, sir, I did not do that.

Q. No sailor aboard the vessel saw you do that?

A. No, sir.

Q. Nobody aboard the vessel saw you do that?

A. No, sir, I never did that. I took great care because we had very little.

Q. Never once did you throw any partially cooked beans in the slop bucket?

A. Yes, sir, I cannot swear to that; I did that. When we was up in Alaska I did that because it was awfully hot and the beans started to get so—if I cooked them for dinner and I gave them for dinner or supper and there was a little left I threw them out.

Q. That was in Alaska? A. Yes, sir.

Q. Didn't you at any time on the voyage coming down throw half burned beans or half cooked beans in the slop bucket? A. No, sir.

Q. Did you throw any other food over the side of

(Deposition of Harry Swanson.)

the ship, or into the slop bucket coming down from Alaska?

A. Just a little bit that we could not use.

Q. You had plenty of bread? A. Yes, sir.

Q. Did you catch fresh fish coming down?

A. Yes, sir, in the Bering Sea.

Q. Cod fish? A. Yes, sir.

Q. All you wanted of them?

A. For a couple of days we had fresh fish as much as we wanted.

Q. Did you salt them then? A. Yes, sir.

Q. What did you do with them when you got ashore? A. What did I do with the fish?

Q. Yes?

A. I don't know what they did with that. They took care of that. [36]

Q. Didn't you have anything to do with that?

A. No, sir.

Q. Weren't you one of the sailors that was caught trying to take fish ashore? A. No, sir.

Q. What was the name of the sailor who was caught trying to sneak fish ashore?

A. That fellow that was trying to sneak fish ashore. What is his name?

Q. Patterson or Patsel?

A. I just heard there was a fellow that took salmon ashore, but—

Q. When you were—

Mr. HUTTON.—(Intg.) Let him finish his answer.

A. (Contg.) I did not see him take any ashore.

(Deposition of Harry Swanson.)

I heard there was a fellow that took salmon ashore.

Mr. CAMPBELL.—Q. When you were in Alaska you wanted to bring some fish down, didn't you?

A. Yes, sir.

Q. That is right? A. Yes, sir.

Mr. HUTTON.—I do not see what that has got to do with the case.

Mr. CAMPBELL.—Q. You had a quarrel with the master about it? A. Yes, sir, I had.

Q. And you sulked about it?

A. No, sir, I was not sulky about it; I asked Mr. Nelson if I could take a little salmon down to San Francisco. I asked Pete Nelson about it and then he started to swear. "What are you going to do with salmon," he said to me. I said "Mr. Nelson, I just asked because the other fellows take salmon," so I asked if I could take salmon, but he did not say anything, but afterwards he said, "all right, you can take a little salmon."

Q. He said you could bring a little?

A. Yes, sir.

Q. Did you bring it?

A. Yes, sir, a little keg.

Q. But you had a quarrel with the master about it? A. Yes, sir. Up there? [37]

Q. Yes. A. That is right.

Q. When you came to leave Alaska who made out the order for the provisions which were to be bought before you left Alaska? A. I did.

Q. Who did you go to about it?

A. The master.

(Deposition of Harry Swanson.)

Q. Who delivered the provisions to the ship?

A. The engineer of the launch and the skipper of the launch. I got it off him when Captain Nelson left Alaska for San Francisco; he was going so I did not get the provisions I wanted to get.

Q. You made out the list for the provisions to come back? A. Yes, sir.

Q. And you gave them to the captain?

A. Yes, sir.

Q. And he bought them where, Mittendorf's?

A. Yes, sir.

Q. Nushagak? A. Yes, sir.

Q. And those provisions were delivered to you by the engineer of the launch?

A. Yes, sir, and the skipper of the launch.

Q. And he delivered everything you ordered except some peas, didn't he?

A. Except some peas and there was some more stuff too. There was a little of it.

Mr. CAMPBELL.—That is not responsive to my question.

Q. Didn't he deliver to you all the stuff you ordered except the peas?

A. Yes, sir, but he did not deliver enough of it.

Q. He delivered all you ordered?

A. All except peas. There was not enough.

Q. He delivered all you ordered. Was not there delivered to you all of the food that you ordered except the peas? Answer it yes, or not.

A. Yes, sir, he delivered all the stuff except the peas, but there was not enough; there was so little

(Deposition of Harry Swanson.)

of it, so I get word you cannot have any more because there is no stores, no provisions to be got in Alaska; that is what the [38] engineer of the launch told me, and I said, "we cannot put to sea with that store." He says, "there is no stores to be got in Alaska," that is what the engineer say. So Mr. Nelson was going to San Francisco, so at the last minute I got seven sacks of flour, at the last minute. That is right, I got seven sacks of flour at the last minute. I told him there was not enough stores to go to sea with. I told him, "we cannot go to sea without enough stores, it is impossible."

Q. Did you have some oat meal?

A. I had some rolled oats.

Q. Did you have any left when you got to San Francisco? A. No, sir, we were short of that.

Q. Did you have any tapioca aboard?

A. Yes, sir.

Q. Did you have some of that left when you got to San Francisco? A. Yes, sir.

Q. Did you have any pearl barley on board?

A. Yes, sir, a little pearl barley.

Q. Did you have any left when you got to San Francisco? A. Yes, sir, just a little scraping.

Q. I am asking you whether you had any left?

A. Yes, sir.

Q. Did you have any prunes on board?

A. Little when we left up there, but not for the last 14 days.

Q. Didn't you serve it every day on the way down?

A. No, sir, three or four times a week I gave them

(Deposition of Harry Swanson.)

prunes, and for the last week we did not have any at all.

Q. None on board when you came to San Francisco? A. No, sir.

Q. Did you make any complaint while you were in Alaska about the food being short? A. Yes, sir.

Q. To whom?

A. To the engineer of the launch.

Q. To the engineer of the launch? A. Yes, sir.

Q. Did you to the captain of your ship?

A. The engineer of the launch. The captain of the ship, he could not do anything. [39]

Q. Did you make any complaint to the master of the ship in Alaska?

A. No, sir, I did not do that. I made complaint to the engineer because the master of the vessel could not do anything; he could not go nowhere, he had to stay aboard. I told the engineer.

Mr. CAMPBELL.—I move to strike out all the testimony concerning the conversation with the engineer.

Q. Who gave you the green peas that you had aboard? Where did you get those?

A. From that other vessel, from the other cook in the other schooner, a little green peas.

Q. From the "C. A. Thayer"?

A. Just a little green peas.

Q. How many tins of green peas did you have on board that vessel, do you know? How many tins of peas did you have on board the vessel when you left San Francisco? A. At San Francisco.

(Deposition of Harry Swanson.)

Q. Yes. A. I don't know.

Q. You do not know? A. No, sir.

Q. Have you any list of the food that was on board the vessel when she left San Francisco?

A. No, sir, I had it in the galley, but the night cook—

Q. (Intg.) You did not keep it yourself?

A. I had it in the galley, but the night cook, he threw it away somewhere. I lost that store list on the trip going up to Alaska.

Q. How much rice did you have on board the vessel when you left San Francisco?

A. I had one sack.

Q. How much did it weigh? A. 100 pounds.

Q. That is all you had? A. Yes, sir.

Q. Do you know of any place in Alaska where you could buy fruit? A. Where they could buy fruit?

Q. Yes. A. Yes, sir.

Q. Where? A. Dried fruit? [40]

Q. Fruit?

A. Yes, they could buy it over at Mittendorf's.

Q. Did you order fruit on this list you gave the master? A. Yes, sir, I ordered fruit.

Q. Was it delivered to you?

A. Yes, sir, but I did not get enough of it.

Q. How much did you specify on the order?

A. I just ordered fruit.

Q. You just ordered fruit? A. Yes, sir.

Q. Did you specify the quantity you wanted of these various articles? When you gave the order to the master did you tell him how much you wanted of each article?

(Deposition of Harry Swanson.)

A. I told him some, but not all. I did not tell him all because I said, "You know better than I, you have been here so long you know better than me what I want." I did not tell him all of it.

Q. Had you cooked on the voyage the year before?

A. Yes, sir, we were two cooks.

Q. Then you knew from previous experience how much food you would need, didn't you?

A. No, sir, I did not know exactly.

Q. Didn't you tell me a while ago upon looking at the stores when you left San Francisco that you did not have enough? A. I knew that.

Q. You were the man who was in charge of the food for all the crew going up, and while you were in Alaska, weren't you? A. Yes, sir.

Q. And when you got ready to start back to San Francisco you were the man who knew how much food was left on hand and how much you would want?

A. Yes, sir, I tell you something: up in Alaska I was short of many things. As soon as I ask Pete Nelson for anything, to buy that and that he never want to do it; he says always I was wrong.

Q. Who was? A. I had an awful time. [41]

Q. Who with? A. Pete Nelson.

Q. Who was Pete Nelson? A. The owner.

Q. Where did you have this trouble with him?

A. He say I had a little—

Q. (Intg.) Where did you have this trouble with him I am asking you?

A. He did not want to give me anything.

(Deposition of Harry Swanson.)

Q. I say, where did you have this trouble with him? A. Up in Alaska.

Q. Whereabouts did you have this conversation with him? A. Out in the station in Alaska.

Q. Can you tell me the time, when it was?

A. I cannot say exactly the day.

Q. Did you complain to him about the food?

A. Yes, sir.

Q. What did you say to him?

A. I say, "I have to get that and get that, that other fellow, that other cook come over to me and get sugar and one thing and another." Pete Nelson, he promised to, he said, "I get you that back in the fall when we come down," but I did not get it again. He tells me "I get it back in the fall," and I did not get it back; and when I ask Pete Nelson for anything I could hardly get it.

Q. You were the one who knew how much food there was on hand before you started back?

A. Yes, sir.

Q. To San Francisco? A. Yes, sir.

Q. And the captain asked you to make up a list of the food that you would need for the voyage down, didn't he? A. The captain?

Q. Yes.

A. No, sir, the captain did not ask me. He did not ask me to make any list.

Q. Who did? A. I had to.

Q. Who asked you to make out the list?

A. Pete Nelson.

Q. Pete Nelson ask you to make out the list?

(Deposition of Harry Swanson.)

A. Yes, sir, but when I gave him that list he did not like it. [42]

Q. You made out the list at Pete Nelson's request? A. Yes, sir.

Q. On that list did you specify, did you say how much you wanted of each article?

A. I did not know how much I wanted of each article. No, sir, I did not know how much I wanted of each article.

Q. Why didn't you state on that list how much you needed of each article?

A. Because I could not put anything on there because Pete Nelson was always sore at you?

Q. He was always sore at you?

A. I told him he would have to store up himself.

Q. That is the reason why you did not put on the list the quantity of each article that you wanted, because Pete Neuson was always sore at you?

A. He was always sore at me so I could not get anything.

Q. Was that the reason you did not put the quantities on the list?

A. That was the reason. I told Pete Nelson he would have to store up himself; that is what I told him.

Q. Why didn't you put the quantities on the list that you wanted?

Mr. HUTTON.—He has already explained that. He said he told Pete Nelson that he would have to store up himself.

Mr. CAMPBELL.—Q. Did Pete Nelson have

(Deposition of Harry Swanson.)

charge of the food? Did he come and count up the stuff you had?

A. Yes, sir, he come looking over the storeroom every day. As soon as he was in there he come to the storeroom and looked.

Q. Was it because Pete Nelson was always sore, is that the reason why you did not put on your list the quantities you wanted of each article? Do you understand what I am asking you? A. No.

Q. Was it because Pete Nelson was sore at you, was that why you did not have on the list the quantities you wanted of the different articles of food? Can you understand me? A. Yes. [43]

Q. Answer the question.

A. Because he was sore at me?

Q. Was that the reason why you did not put the quantities of the different articles you wanted on the list?

A. No, sir, I did not pay any attention to that; but I told him, I say I told him, "you would have to bring the stores," I say, "and take charge, you have been here so long." He has been 30 years in Alaska, so long he has experience enough. There is not that thing, he is always short of provisions every year. There is not one year he has not been short of provisions.

Mr. CAMPBELL.—I move to strike that out as irrelevant.

Q. Who wrote up the list, did you or the captain?

A. I wrote up the list.

Q. Did you write it up in your own handwriting?

(Deposition of Harry Swanson.)

A. I had the skipper on board the "Thayer" to write it up first. I had told him to write the list in English for me because I cannot write English, you know.

Q. So the captain of the "C. A. Thayer," Captain Jacobson, wrote down on the paper the food that you wanted? A. Yes, sir, on the list.

Q. What did you do—

Mr. HUTTON.—(Intg.) Let the witness finish. You don't give him a chance to finish his answers.

Mr. CAMPBELL.—I submit the question has been answered; let me follow it up with my next question and then if he desires to make any explanation afterwards, all right.

The WITNESS.—He wrote it on the list, but I did not understand that very well what he was writing. He was writing, but I did not understand that very well so I wrote up another list in half Swedish and half English and I give it to Mr. Nelson.

Q. Didn't you give that list of Captain Jacobson—
[44]

A. (Intg.) I asked him one day when he was up in the station if he will write up the list in English for me,—in American.

Q. This list you wrote in half Swedish and half English, didn't you give that to Captain Jacobson too?

A. No, sir, I gave the order when he was writing the stores. I stood alongside of him.

Q. When you gave this list to Captain Jacobson that he wrote out for you, didn't you give the quan-

(Deposition of Harry Swanson.)

tities of each article that you wanted?

A. Yes, sir, to Captain Jacobson.

Q. Did you yourself make complaint to the master of the ship that the water was not good?

A. Yes, sir, I did.

Q. Now, you say you did not have any onions?

A. I had about 35 onions when I left Alaska.

Q. How many did you have when you left San Francisco?

A. I had two gratings of Australian onions.

Q. How man did you have when you arrived back in San Francisco; how many did you have on board your vessel?

A. Not one; not one what I know of. I could not find any.

Q. Did you give the crew any salt fish on the way down? A. Yes, sir.

Q. What was the vessel loaded with?

A. We were loaded with salt salmon.

Mr. CAMPBELL.—That is all.

Redirect examination.

Mr. HUTTON.—Q. What was the name of the captain of your ship?

A. Captain Soiland.

Q. Where did he live on the ship—up in Alaska where did he live, on the ship or ashore?

A. He was living ashore, fishing at the station.

Q. How did you come to go to Captain Jacobson to make up a list of [45] provisions?

A. Because he was always a friend of mine.

Q. How many lists did you make up. Did you

(Deposition of Harry Swanson.)

make up one or two?

A. One list before the ship left, you know.

Q. You say that Jacobson also wrote one; is that right?

A. He wrote one in American for me.

Q. Which one was it you gave to the captain or Pete Nelson? A. The one I wrote.

Q. Was that in English or Swedish.

A. Half Swedish and half English.

Q. Who did you give it to?

A. To Mr. Nelson, the owner.

Q. How long was that before Nelson left?

A. That was the last time he was over. He went away, so we could not speak to him any more. We did not know he was going to San Francisco when the launch came over and he was going.

Q. How long was that before the ship left that you gave that list to Nelson?

A. They were around the 20th of July they got the stores.

Q. Was it after that that Jacobson wrote a list for you? A. Before.

Q. What did you do with the one Jacobson wrote?

A. I burned it up.

Q. Did you give that to Nelson too?

A. No, sir.

Q. Who did you give that to?

A. I was just looking over it a little while and was writing on the other piece of paper.

Q. Then, you only gave one list, did you?

A. Only gave one list.

(Deposition of Harry Swanson.)

Q. That was to Pete Nelson? A. Yes, sir.

Q. You did not give any to your captain?

A. No, sir.

Q. Did you get all of the articles that were on that list that you gave to Pete Nelson?

A. No, sir, I did not get peas, split peas.

Q. Did you get the quantities that you put on the paper?

Mr. CAMPBELL.—He testified he did not put any quantities on it. [46].

Mr. HUTTON.—Q. Did you put down how much of each stuff you wanted? A. Not all of it.

Q. Where you did put down the amount you wanted did you get that amount when the stuff came to the ship? Did you get back on the ship from the launch the amount of stuff that you told him you wanted? Did they send over to you what you asked for?

A. They sent the stores over on the order.

Q. Did they send as much as you asked for?

A. No, sir. I ordered for milk three cases of milk and I got two cases.

Q. What else?

A. I cannot remember the other things.

Q. Did you get everything that you asked for in quantity?

A. I cannot answer to that either.

Q. Do you remember anything else that you were short of; that is on the order? On the list that you gave to Pete Nelson do you remember of anything else that came back short; that is, where you did not

(Deposition of Harry Swanson.)

get as much stuff as you asked for? A. Yes, sir.

Q. What was it?

A. There was flour; I had to get that afterwards when I had the trouble with him up there to get it, to get the last of it.

Q. What trouble did you have; trouble getting stuff?

A. The trouble to get that flour; trouble to get stuff because I want some more stores when the launch came over and the engineer said "I will not run over there to Mittendorf's store." I says, "all right, I have not got stores enough to take the vessel down to Frisco."

Mr. CAMPBELL.—I move to strike that out as hearsay.

Mr. HUTTON.—Q. Did you tell that to the captain, you have not got stores enough?

A. The captain knew that. He says, "Is that the stores we got"? I says, yes, that is all I have." I says, "There will not be enough." He says, "No, that cannot be enough?" [47]

Q. Why didn't the captain get some more?

A. He could not do anything. He was no more than I was; he could not get anything.

Q. Who was the man to do the ordering up there; who gave the ordering to the store up there?

A. I ordered to the store; I should give the order to the store.

Q. You said the captain could not *go* any more than you could. Who could get stores up there?

A. Either Pete Nelson, the owner, or Mr. Ek, the

(Deposition of Harry Swanson.)

engineer of the launch.

Q. Did you make out the store list in San Francisco before the vessel went away? A. No, sir.

Q. Did you order any stores before the vessel went away? A. Some potatoes.

Q. How many sacks did you order?

A. I did not order any; Pete Nelson ordered them and I said it would not be enough.

Q. Then he gave you some more?

A. Then he gave me eight or ten sacks more.

Recross-examination.

Mr. CAMPBELL.—Q. What else was there that was short on your order excepting milk? You said you ordered three cases of milk, didn't you, and you got two. Was it milk or meat? A. Milk.

Q. What else was there short on your order besides milk? A. We were short of everything.

Q. Short of the quantity that you asked for? What else was there that you were short of besides the milk. You say you asked for three cases of milk and you only got two? A. Yes, sir.

Q. How many cases of peas did you ask for?

A. I did not ask for any peas except split peas.

Q. How many cans or pounds of split peas did you ask for?

A. I guess there are 50 pounds of split peas, put it.

Q. What was it?

A. Either 30 or 50; I cannot say exactly; I cannot remember. [48]

Q. Either 30 or 50? A. Yes, sir.

Q. How many pounds were delivered to you?

(Deposition of Harry Swanson.)

A. They did not deliver me any peas at all from Mittendorf.

Q. Did they from any other place?

A. Yes, sir, I got some little green peas from the other cook.

Q. How many pounds of those?

A. Just a little, about six or seven pounds, I guess; a small amount, six or seven pounds of green peas.

Q. How many pounds of potatoes did you order on that list?

A. I did not order any potatoes because he told me I cannot get any potatoes up here.

Q. You did not put potatoes on the list at all?

A. No, sir. That is what he told me.

Q. Who told you?

A. Pete Nelson, he said "We cannot get any potatoes or anything like that up here."

Q. Had your potatoes rotted on you at all?

A. The potatoes rotted?

Q. Yes.

A. Yes, sir, they were bad; you know it was awful hot up there; they were bad. You know they were very cheap potatoes.

Q. That is the reason they were bad, because they were cheap potatoes? A. Yes, sir.

Q. But the potatoes you took up from San Francisco rotted on you in Alaska? A. Yes, sir.

Q. So there was not any left over to come back with?

A. I had just a little to make yams with.

Q. You had just a little to make yams with?

(Deposition of Harry Swanson.)

A. Yes, sir.

Q. How many pounds rotted on you?

A. I cannot say that.

Q. You cannot tell? A. No, sir.

Q. How much salt pork did you order on this list you gave Mr. Nelson; how many pounds?

A. I did not order for any salt pork. [49]

Q. You did not order. You did not put that on the list? A. No, sir.

Q. Did you put that on the list you gave Captain Jacobson?

A. No, sir, I did not give Captain Jacobson any list.

Q. Didn't you tell him what you wanted and he wrote it down? A. Yes, sir.

Q. How many pounds of salt pork did you tell him you wanted? A. I did not tell him any.

Q. What became of that list of Captain Jacobson's, the list that Captain Jacobson wrote out; did you tear it up; the list that Captain Jacobson wrote out for you, did you tear that list up?

A. Yes, sir, I tore it up.

Q. You tore that list up that Captain Jacobson wrote out? A. Yes, sir, I tore it up.

Q. How many pounds of salt pork did you have on that list? A. I cannot remember that exactly.

Q. You do not remember there being any on there at all? A. Any pork on there?

Q. Yes?

A. No, sir, I cannot remember that.

Q. How many cans of tomatoes did you ask for on

(Deposition of Harry Swanson.)

this list you gave Pete Nelson?

A. I did not ask for any. I said, "You know what you can get in the storeroom, Mr. Nelson, you have been here a long while." I did not get any stores myself; it was not my job, I was only cook.

Q. Why, if it was not your job to make out a list and put tomatoes on it, did you make out a list at all?

A. I told Captain Nelson it is not my job to make a store list; he knew everything what I had in the storeroom; he know every piece I had in the store-room.

Q. If you were making up a list, why didn't you put on it all the [50] stuff you wanted instead of just part of it?

A. I did not do that. He know what I should have. I did not make any list here before; I did the same thing the year before and I did not make any list.

Q. How many bags or pounds of beans did you order on the list of Pete Nelson, or the one Captain Jacobson made out? A. I don't know.

Q. You did not put any down?

A. I did not order any cheese, but I got one cheese.

Q. Beans?

A. I had one sack of beans. I don't know if I ordered any.

Q. How many did you order?

A. I don't know if I ordered any.

Q. You say you got some cheese?

A. I got one cheese and I did not order for any cheese.

(Deposition of Harry Swanson.)

Q. What did you do, throw it overboard because you did not want it?

A. No, sir, I told him, I say, "I was no steward," I was only cook.

Q. How much rice did you order on the lists?

A. No rice.

Q. How much pickles did you order?

A. No pickles.

Q. Did you order any fruit? A. Yes, sir.

Q. What did you ask for, what kind of fruit?

A. I asked for prunes.

Q. Did you get them?

A. I got a small case, just a little of those.

Q. How many pounds did you ask for?

A. I don't know; I cannot tell you.

Q. Did you say the number of pounds?

A. I cannot say that.

Q. How many pickles did you ask for. You did not ask for any at all, did you?

A. No, sir, I do not think so.

Q. How many onions did you ask for?

A. Onions. I know we cannot get that up there, so I did not ask for that. [51]

Q. Did you ask for any mustard?

A. No, sir, I do not think so.

Q. Did you ask for any canned meat?

A. Yes, sir.

Q. How many cases? A. I got two cases.

Q. How many did you ask for?

A. I don't know.

Q. You did not name the number?

(Deposition of Harry Swanson.)

A. No, sir, I got two small cases.

Q. But you do not remember the number you asked for? A. No, sir.

Q. As a matter of fact you did not ask for any number?

A. I cannot say that exactly either.

Q. Have you shipped to sea?

A. Yes, sir, I have been around—

Q. (Intg.) Have you got a job now?

A. No, sir.

Q. What are you doing now, are you ashore?

A. Yes, sir.

Q. Have you shipped on any vessel? A. No, sir.

Q. You do not know when you are going to sea?

A. I don't know.

Mr. HUTTON.—Q. You may go any day?

A. Yes, sir, I may go any time.

Mr. CAMPBELL.—Q. But you have not got any job now? A. No, sir.

Mr. CAMPBELL.—That is all.

**[Certificate of U. S. Commissioner to Deposition of
Harry Swanson.]**

United States of America,
State and Northern District of California,
City and County of San Francisco,—ss.

I certify that on Friday, October 23d, 1914, in pursuance of the notice and order of Court filed in the above-entitled cause at my office, in the postoffice and courthouse building, room 308, in the City and County of San Francisco, State of California, personally appeared before me, Francis Krull, a United

States Commissioner for the [52] Northern District of California, to take acknowledgments of bail and affidavits, etc., Harry Swanson, a witness produced on behalf of the libelants in the cause entitled in the caption hereof, and H. W. Hutton, Esq., appeared as proctor on behalf of the libelants, and Ira A. Campbell, Esq., appeared as proctor on behalf of the defendant, and that the said witness being by me first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in said cause, deposed and said as appears by his deposition hereto annexed.

I further certify that the said deposition was then and there taken down in shorthand notes by Herbert Bennett, and thereafter reduced to typewriting; and I further certify that by stipulation of the proctors the reading of the deposition over to the witness and the signing thereof was expressly waived.

And I do further certify that I have retained the said deposition in my possession for the purpose of delivering the same with my own hand to the clerk of the United States District Court for the Northern District of California, the court for which the same was taken.

And I do further certify that I am not of counsel, nor attorney for either of the parties in the said deposition and caption named, nor in any way interested in the event of the cause named in the said caption.

IN WITNESS WHEREOF I have hereunto set

my hand at my office aforesaid this 24 day of November, 1914.

FRANCIS KRULL, (Seal)
United States Commissioner, Northern District of
California, at San Francisco.

[Endorsed]: Filed Nov. 24, 1914. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [53]

Testimony Taken in Open Court.

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[Proceedings Had Thursday, February 18, 1915.]

*In the District Court of the United States for the
Northern District of California, First Division.*

IN ADMIRALTY—No. 15,709.

Before Hon. MAURICE T. DOOLING, Judge.

CARL PATSEL et al.,

Libelants,

vs.

P. M. NELSON,

Respondent.

Counsel Appearing:

For the Libelants: H. W. HUTTON, Esq.

For the Respondent: IRA A. CAMPBELL, Esq.

Thursday, February 18, 1915.

Mr. HUTTON.—This is an action, if the Court please, by a number of libelants for the compensation described by the statute for a shortage of provisions. I desire to call your Honor's attention to the answer. The ground of the answer all the way through says the respondent alleges on information and belief and denies that there was any failure to give these people the food they claim they were entitled to under this statute. The question in my mind is whether or not that is a sufficient denial. The respondent ought to know whether these men got food or whether they did not. I make that suggestion at this time.

Mr. CAMPBELL.—If the Court please, counsel ought to take advantage of that and move for a more specific answer if he is not satisfied. The owner of

this vessel was not on board the schooner while she was coming down from Alaska and therefore he has not positive knowledge, and can only speak on information and belief.

Mr. HUTTON.—His denial should be direct. [55*—1†]

[Testimony of Harry Swanson, for Libelant.]

HARRY SWANSON, called for the libelant, sworn:

Mr. HUTTON.—Q. You are one of the libelants in this case, are you? A. We were short of food.

Q. I say you were one of the men who signed this libel? You are one of the libelants, are you not?

The COURT.—He says he does not understand you.

Mr. HUTTON.—Q. You are one of the libelants in this case, are you not?

A. Yes, sir, I was cook on board.

Q. You were cook on the “Roy Somers,” on the voyage she made last year to Alaska, were you not?

A. Yes, sir.

Q. You went up to Alaska in her?

A. Yes, sir, Alaska.

Q. How long were you going up? A. 31 days.

Q. Where did you go to?

A. Either 30 or 31 days; I cannot say for sure; 31 I believe.

Q. Where did you go to?

A. To Koggiung, Alaska.

*Page-number appearing at foot of page of certified Transcript of Record.

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(Testimony of Harry Swanson.)

Q. When you got to Koggiung what did you do?

A. We get ashore there.

Q. You put all the stuff ashore for fishing?

A. Yes, sir.

Q. Where did you fish from?

A. They fish from the river.

Q. Where did you men live when they were fishing?

A. They were living ashore; some of them in the boat when they were fishing.

Q. And after you got through fishing, after the fishing season was over, what did you do with the fish that were caught?

A. They loaded the vessel with fish.

Q. Then what did the men do?

A. They were loading the vessel.

Q. After they got the vessel loaded, what did they do?

A. We was off for Frisco.

Q. You went back aboard the ship again?

A. Yes, sir, we all went back, I believe. [56—2]

Q. And came back to San Francisco?

A. Yes, sir.

Q. I say you then came back to San Francisco?

A. We then came back to Frisco.

Q. How many days were you coming down?

A. 29.

Q. Where did you and the men get their food on the vessel?

A. What we got—we had a little aboard the vessel, but very little what we had; we was short of food.

(Testimony of Harry Swanson.)

Q. Where did they eat it, up forward, or in a room or where?

A. The fishermen eat forward in a room, and the officers and bosses are eating aft.

Q. Did the men all eat in the same place?

A. Yes, sir, the fishermen eat in the same place and the boss and officers was eating aft.

Q. Where was the cooking done? A. Forward.

Q. Did the vessel have any steward?

A. No, sir, had no steward.

Q. And you were the cook going up in Alaska and on the way down? A. Yes, sir.

Q. Now, on the way down to San Francisco what water did you use—that is, where was the water gotten from?

A. The water—they filled the big cask over in Nushagak, I believe; I cannot say because I was working ashore. That is what they said.

Q. Was the water gotten from the fishing station?

A. Yes, sir, the water we had in the tank.

Q. How much water was there?

A. I do not know where they took it from; I know where they left it; they left it on board the schooner; where they took it from I could not say; they took some from the station, but they did not take all of it from the station where I was.

Q. You had water in the tank? Had you tanks anywhere else? A. Water in the big cask. [57—3]

Q. How many casks were there?

A. I cannot remember exactly how many casks;

(Testimony of Harry Swanson.)

I think it was 5 or 6, something like that; I cannot say for sure.

Q. Did you have more water in the casks than there was in the tank? A. I do not know.

Q. You cannot tell that? A. I cannot tell that.

Q. What water did you use on the way down from Alaska to San Francisco, from the tank, or from the casks?

A. We used it first from the casks when we started out and then we took it from the tank.

Q. How many tanks were there—not casks, but how many tanks had she on board?

A. One big tank; I don't think there was any more on board than one big tank.

Q. Where was that tank?

A. Right underneath the galley.

Q. Below deck? A. Below deck.

Q. Where were the casks?

A. The casks were standing forward, some of them—no, they were standing aft on the trip home.

Q. And you say you used the water from the casks when you started out. How long did you use it from the casks?

A. From the casks I used it probably about 18 days, something like that, something like 18 to 20 days; something like that.

Q. What was the condition of the water? Was it good water or bad water?

A. The water from the casks was rotten.

Q. In what way was it bad?

A. It tasted so bad; the water was rotten; you

(Testimony of Harry Swanson.)

could not use it; we had to use it, but it was rotten; people could not stand the taste or smell of it.

Q. How did it taste, salty or how?

A. It tastes rotten.

Q. It had a bad taste?

A. Yes, sir, it had a very bad taste.

Q. Did you use that for cooking purposes?

A. Yes, sir, pretty near all cooking; I could not get any other water; they would not give me any other water to cook with [58—4] except for coffee; I got a little fresh water for coffee and tea, some of the other water.

Q. Where did you get that other water from for the coffee and tea?

A. They had one tank aft of that pretty good water; there was good water in that; the tank was underneath the galley and there was good water in that tank; they gave me some of that.

Q. When you got into San Francisco was there much water left; that is, of all the fresh water you had on the trip?

A. There was some water left; I do not know how much.

Q. Who told you to use this water from the cask, if anybody?

A. The skipper told me to use it, and I did not get the water myself; there was a water-tender on board and he gave the water to me, brought it to the galley,

Q. Who was the water-tender?

A. Hugo Luden.

Q. What did he do with respect to water?

(Testimony of Harry Swanson.)

A. He could not do anything else except the water he had from the boss.

Q. You say he was the water-tender; what did he do with the water, measure it out?

A. Yes, sir, he gave me so much a day.

Q. Did he give it to you—in what—how did he give it to you?

A. Buckets, and emptied it into a big barrel, into a salmon barrel.

Q. What water did the men have to drink on the way down?

A. They had good water to drink; some of the trip coming home they had good water to drink. I do not know all; I cannot say for sure if they had good water to drink the whole trip, but they had for some part of the trip anyway; that I cannot say for sure.

Q. Did you have any salt pork on board when you left Alaska?

A. Yes, a little bit we salted of a pig; we killed a pig and salted some. [59—5]

Q. How big was the pig?

A. Well, maybe it was 200 pounds; I cannot say that for sure; but that I say for a guess.

Q. Did you ever on the way down serve out on any one day salt pork as food for the men?

A. Salt pork, no, nothing; except in the beans.

Q. At no time then on the trip was any rations of salt pork fed out as salt pork for a meal?

Mr. CAMPBELL.—Let this witness do the testifying.

Mr. HUTTON.—Read the question, Mr. Reporter.

(Testimony of Harry Swanson.)

(The Reporter reads the question.) Did you ever serve out salt pork any day except in beans. Did you ever give the men a meal of salt pork?

A. No, sir, not on the trip coming home; maybe there was once; I cannot say for sure; I cannot say that for sure; I do not know.

Q. Did you have any potatoes on the way down?

A. No, sir, we did not.

Q. Did you have any yams on the way down?

A. No, sir, that we did not; we had potatoes for yeast, a little you know; just a little bit so I can make yeast up.

Q. Yeast?

A. Yes, sir, I took off a little but it was rotten, been up there a long time, and it was rotten.

Q. What was the condition of the potatoes when you left San Francisco?

A. They were very poor potatoes when we left San Francisco; we had to sort the potatoes two or three times going up to Alaska; cut them out; we had very poor potatoes going up; maybe it was only once we served them; they were very poor and we had to cut them out, cut the potatoes out with a knife; they were very poor potatoes.

Q. When did you commence sorting them on the way up?

A. It was up around Unimak Pass, somewhere I believe up there.

Q. When did they give out, if they gave out at all? When did the [60—6] potatoes give out so that you had no more?

(Testimony of Harry Swanson.)

A. After we quit in the Pass; I gave them two or three meals after that, after quitting in the Pass.

Q. What do you mean by quitting in the Pass?

A. They quit in the Pass in July.

Mr. CAMPBELL.—Q. Quit fishing?

A. Quit in the Pass in July, between the 20th and 25th, I believe, of July.

The COURT.—Q. Was that before you started home?

A. Yes, sir, when they quit fishing.

Mr. HUTTON.—Q. Did you have any canned tomatoes on the way home? A. No, sir, we did not.

Q. Did you have any peas on the way home?

A. I had about 6 or 9 cans of peas; there was enough for two times, two meals, either six or nine.

Q. Did your beans last you all the way home?

A. No, sir.

Q. How many days was there when the men should have had beans that they did not have beans; when did the beans give out?

A. We were short of beans for a week, something like that before we got in; I had to give them beans every day because I did not have anything else to give them but beans.

Q. Do you remember what day you arrived in port in San Francisco?

A. Yes, sir, we came in on the 7th of September. Was it not the 7th of September? It was Labor Day; we arrived here on Labor Day, either the 7th or 9th.

Q. Did you have any rice on the way down?

(Testimony of Harry Swanson.)

A. Yes, sir, we had a little.

Q. How long did it last?

A. I just used the rice the last two—I had rice for two days only, two or three days only; that is all I had. I give them rice when the beans have gone.

Q. Did you have any fruit on the way down?

A. We had some dried fruit, that was two weeks, I believe, [61—7] something like that; then we were short of that.

Q. Did the men get any fruit on the way down?

A. They got the same all of them, all of them got the same thing.

Q. Do you know how many days it was that the men did not have any fruit?

A. Well, I cannot say; I cannot say; for twelve days they did not have any fruit.

Q. Do you mean twelve days when they should have had it, that they did not have it?

A. Yes, sir; they are supposed to have fruit every night.

Q. Did you have any onions on the way down?

A. Very little, not the last days; I just had a couple of dozen onions when I left Alaska.

Q. What did you use them for?

A. I used them for the corned-beef hash.

Q. Were they ever cooked and served out to the men as onions? A. No, sir.

Q. Did you have any pickles? A. No, sir.

Q. Any mustard? A. No, sir.

Q. Did you have any canned meats?

A. Yes, sir, but not enough; very little of it.

(Testimony of Harry Swanson.)

Q. Did that give out? A. Yes, sir.

Q. When did it give out?

A. Six days before we come in port, I believe; the week before we came in port, something like that. I had to go very easy with it, so I cooked it two times a week except I cooked up a little at night-time for supper, I cut out a little corned beef.

Q. You say you gave it two times a week all the way down? A. Yes, sir, for dinner.

Q. That is, up to the time it gave out?

A. Yes, sir; I could not give it all the time. [62—8]

Q. How many were on the ship, do you know, up forward?

A. There was 27 men going up, and 26 men, I believe, coming home; something like that, possibly something around 26 men.

Q. Is that fisherman and sailors? A. No, sir.

Q. Altogether?

A. There were eight fishermen and there was a mess-boy and cook; that is ten.

Q. How many men were aft?

A. About five men aft.

Q. Who were they?

A. There was cooper and *beachmore* and the second mate and first mate and skipper.

Q. How many men were there would you say altogether, on the ship? A. There was 26 men.

Q. That includes the captain and cooper and the men aft? A. Yes, sir.

Q. She is an American vessel, is she?

(Testimony of Harry Swanson.)

A. Yes, sir, she is an American vessel; she belongs at San Francisco.

Mr. HUTTON.—That is all.

Cross-examination.

Mr. CAMPBELL.—Q. You have testified to all these things once before, have you not?

A. Yes, sir.

Q. Do you remember Mr. Hutton and myself examining you once before? A. Yes, sir.

Q. Out in this same building?

A. Yes, sir, in this same building.

Q. This vessel was engaged in catching salmon off the mouth of the Nushagak River?

A. No, sir, Koggiung River.

Q. That empties into Bering Sea?

A. Yes, sir, that empties into Bering Sea.

Q. The lower end?

A. Yes, sir; I do not know what end it was, but there is some kind of an end.

Q. Just a few days after you passed through Unamak Pass? A. Yes, sir.

Q. You took on board here at San Francisco a lot of fishermen, [63—9] with fishing supplies for the catching of salmon, didn't you? A. Yes, sir.

Q. And sailed up to your fishing station at Koggiung? A. Yes, sir.

Q. And then while you were at Koggiung, everybody who was on board the vessel was engaged in one way or the other in catching salmon?

A. Yes, sir.

(Testimony of Harry Swanson.)

Q. That salmon was salted down in barrels, was it?

A. Yes, sir, it was salted in barrels, in a tank first, and afterwards in barrels.

Q. In tanks or casks first and then afterwards in barrels? A. Yes, sir.

Q. After the salmon quit running or until you had filled up all your casks or barrels, whichever it was, then you quit your fishing and everybody came back on the vessel? A. One man did not come.

Q. Do you know Pete Nelson, the man who you are suing?

A. Yes, sir, I have been with him two seasons.

Q. What other fishing vessel did he send to Alaska with the "Somers"? A. The other vessel?

Q. Yes. A. The schooner "C. A. Thayer."

Q. She was about the same size as the "Somers" was she not, a similar vessel?

A. A little bigger.

Q. She engaged in fishing, going from San Francisco and fishing in Alaska, and then returned to San Francisco just as your vessel did?

A. Yes, sir.

Q. Only the "Thayer's" fishing station was not at Koggiung, but she was at Nushagak?

A. The "Thayer" went to Nushagak?

Q. Yes. A. Yes, sir.

Mr. HUTTON.—Your Honor, this man's deposition was taken; of course he is in court, and I could not use it. [64—10]

Q. You say you had worked for Pete Nelson two

(Testimony of Harry Swanson.)

years? A. Two summers.

Q. Two summers? A. Yes, sir.

Q. That is, during the two fishing seasons?

A. Yes, sir.

Q. What vessel were you on?

A. The "C. A. Thayer."

Q. In what capacity? A. In what capacity?

Q. What did you do on her? A. I was cook.

Q. Cook? A. Yes, sir.

Q. When you left San Francisco did you go over the provisions which your vessel had?

A. I see what was there, yes.

Q. From your previous experience in working for Pete Nelson the summer before as cook on the "Thayer," you knew just exactly what you were going to be required to do last summer?

A. I was not the steward on board.

Q. You did not have a steward? A. No, sir.

Q. They do not carry stewards on fishing vessels?

A. Yes, sir, the bigger ones.

Q. The Alaska Packers? A. Yes, sir.

Q. The bigger ones? A. Yes, sir.

Q. They are big sailing vessels? A. Yes, sir.

Q. This is a small one? A. Yes, sir.

Q. You knew from your experience on the "Thayer" the year before just what you would be required to do on the "Somers," didn't you? You knew from acting as cook on the "Thayer" the summer before what you were to do?

A. Yes, sir; I knew as much the first year as I did the last year.

(Testimony of Harry Swanson.)

Q. And you knew as much the last year as you did the first year?

A. Yes, sir, exactly the same thing.

Q. When you went aboard the "Somers" here in San Francisco you knew that she would have to carry most of the supplies that would be used on the voyage going up, while you were fishing in [65—11] Alaska, and while on the voyage coming back, didn't you? A. Yes, sir.

Q. Now, when you went aboard the "Somers" as cook did you go over the provisions that were on board the vessel to see what you had?

A. Yes, sir, I seen what I had.

Q. And you found out what you had?

A. Yes, sir.

Q. Did you ask Pete Nelson at that time to get any more provisions than what you had?

A. Yes, sir, I asked for more potatoes.

Q. Did he get them for you?

A. Yes, sir, he got some, but not so much as I wanted.

Q. He got some, but not as much as you wanted?

A. Yes, sir.

Q. Did you ask for anything else besides potatoes?

A. I cannot remember; I know I asked for potatoes.

Q. That is the only thing that you can remember asking for? A. Yes, sir.

Q. And you were the man who had charge of dealing out the food, what quantity should be given, and

(Testimony of Harry Swanson.)

when it should be given to the members of the crew, or did anybody else have charge over the cooking besides yourself?

A. Not over the cooking, but over the food; there was someone in charge.

Q. Who was it?

A. The beach boss in Nushagak.

Q. Anderson? A. Yes, sir.

Q. He went up with you? A. Yes, sir.

Q. He did not come down with you?

A. No, sir.

Q. All during the fishing season Anderson was at Nushagak? A. Yes, sir.

Q. And you were at Koggiung? Yes, sir.

Q. So you had absolute control yourself over the cooking and serving of food to the fishermen while you were at Koggiung, and on the voyage back?

A. Yes, sir.

Q. Where did you buy provisions in Alaska? What store was [66—12] there around there?

A. I do not know. I just heard there was a store over in the place. I never went there.

Q. What kind of a place is Koggiung?

A. Where they fish.

Q. Is there a town there, or just a station?

A. I never was down there; maybe further up; I do not know.

Q. There was no town where your station was?

A. No town.

Q. Where were you the year before in the "Thayer," in Nushagak?

(Testimony of Harry Swanson.)

A. No, sir, I was in the same place.

Q. Have you ever been to Nushagak?

A. Just once.

Q. Is there any store there?

A. I never saw any.

Q. The only store you ever heard of in that section of Alaska is Mittendorf's store at Nushagak?

A. Yes, sir.

Q. When your vessel came to leave Alaska to come back to San Francisco, did you go over the list of your stores that you had on board your vessel, to see what you had left? A. Yes, sir, I seen.

Q. Now, you could not read English very well, could you? A. Read a little.

Q. Along towards the close of the fishing season when you were getting ready to come back to San Francisco you got a hold of the captain of the "Thayer," didn't you? A. Yes, sir.

Q. And you told the captain of the "Thayer" to write down for you the list of the provisions which you wanted for the return voyage, which he was to buy from Mittendorf's store, didn't you?

A. Yes, sir; he was not the one to buy; the old man, Mr. Nelson, he should buy.

Q. Pete Nelson told you to buy whatever you wanted at Mittendorf's? A. No, sir.

Q. Had he not told you to send to Mittendorf's?

A. He told me, he say, "You can put up a little list which you want" he say, and I did that, just a little bit, the same summer and got the stores for me at Koggiung to send over to the [67—13]

(Testimony of Harry Swanson.)

other place, and he told me I should get it back in the fall; I never got it back from there.

Q. Pete Nelson told you to make up a list of stuff you wanted from Nushagak?

A. He told me to make up a list.

Q. Before you left up there and when you were getting ready to leave to come back to San Francisco, you and the captain of the "Thayer" made up a list of the stuff you were to get from Mittendorf's store, didn't you?

A. The captain of the "Thayer" made a list, but I did not use that list. I wrote the list myself.

Q. It is a fact that you and the captain of the "Thayer" marked down and made out this list together?

A. Yes, sir, we were sitting at the table together.

Q. Sitting at the table together? A. Yes, sir.

Q. Where, on board the vessel?

A. Sitting in the dining-room.

Q. Where? A. Up at the station.

Q. Where did you keep your provisions in Alaska?

A. In the storeroom up at the station; there was a little bit on board.

Q. Did you keep them under lock and key at the station?

A. Yes, sir. The door was locked all the time, not in the daytime.

Q. Who had the key? A. I had the key.

Q. It was not locked in the daytime?

A. No, sir; I was around there.

Q. You had the key to the door? A. Yes, sir.

(Testimony of Harry Swanson.)

Q. Did the captain of the "Thayer" ever go into the storeroom at the station and look over the stores to see what provisions you had left, and to see what you would need?

A. Yes, sir, he was there many times in the storeroom.

Q. When you got ready to make up your list did he go over and see what you had left? A. No, sir.

Q. When you got ready to make up your list did he go over to [68—14] see what you had left?

A. No, sir.

Q. Who did that?

A. Nobody except Captain Nelson; he was running in and out 50 times a day into the storeroom.

Q. Before you had made up this list Captain Nelson had left. Who do you mean by Captain Nelson? Pete Nelson? A. Yes, sir.

Q. He had left at that time?

A. He was there at that time.

Q. Did the captain of the "Thayer"—what is his name? A. Captain Jacobson.

Q. Did he tell you what to put down on this list?

A. He told me some, I believe.

Q. But you told him what to write down?

A. Yes, sir.

Q. Did you ever show this list to Pete Nelson?

A. Not that list that the captain of the "Thayer" wrote. I wrote another one.

Q. You did not show this list that the captain of the "Thayer" wrote? A. No, sir.

Q. What did you do with this list that the captain

(Testimony of Harry Swanson.)

of the "Thayer" wrote? You took and copied that, didn't you?

A. No, sir, I wrote that. I just looked over it a little in the storeroom, and then put up a little list, some things what I was going to have.

Q. You added to the list that the captain of the "Thayer" made. You added more stuff to the list that the captain of the "Thayer" wrote down?

A. I cannot remember that.

Q. What change did you make in the list?

A. I cannot remember that now, what change I made.

Q. Why was the captain of the "Thayer" assisting you in making up a list?

A. We were sitting and making it together.

Q. What for? Getting ready to come back to San Francisco?

A. There could not be enough, what we had then. My figure was there when I made this list. Pete Nelson, he be running it, [69—15] and he can order what I want. I give him this list, and he can say; he would be running in and out the store every day. He could go into the storeroom, and he know exactly which stores was there himself. He had been in Alaska so many years, he would know exactly.

Q. Pete Nelson was in charge?

A. He was the owner. He has been up in Alaska so many years; it is the same thing every year, he is always sure of provisions. It is exactly the same for the two years I have been with him; it is a long time ago.

(Testimony of Harry Swanson.)

Mr. CAMPBELL.—I move to strike that out.

Q. Did you see the year before?

A. No, sir, we had very little to eat the year before, too.

Q. Did you show Pete Nelson this list that you had written up? A. Yes, sir, I gave it to him.

Q. What did he do with it? What did you give it to him for? A. What should I do with it?

Q. What were you going to have him do with it—take it to Mittendorf's? A. To get some stuff.

Q. That is, you gave it to him to take up to Mittendorf's? A. I don't know what he do with it.

Q. Did Pete Nelson ever tell you you could not have the stuff you ordered on the list?

A. Did he ever tell me?

The COURT.—Q. Did you get anything you put on the list? A. No, sir, I did not.

Mr. CAMPBELL.—Q. What didn't you get?

A. Well, I can't remember now, but I know I did not get it all; I cannot remember; it is a long time ago; but I know I did not get all that I ordered; maybe I get something I did not order. I did not order cheese, I remember that. I got a piece of cheese.

Q. You got cheese?

A. I got cheese 35 days before we come to San Francisco. [70—16]

Q. Now, Mr. Swanson, we are talking about the list that you made up just before you came to San Francisco.

A. Before we came to San Francisco?

(Testimony of Harry Swanson.)

Q. Yes. A. That is the list we got.

Q. Was that 40 days before you reached San Francisco that you made up that list? A. Yes, sir.

Q. How long was it before you sailed; just a day before you sailed?

A. No, it was before we left, I could not say that for sure.

Q. Who brought the list back from Mittendorf's? Did the captain of the "Thayer" and the engineer of the launch?

A. I do not know; I never saw them coming back.

Q. Who brought the provisions back?

A. They brought it back on board a little steam launch.

Q. Who brought them back?

A. The captain and the engineer.

Q. The captain of the "Thayer"? A. Yes, sir.

Q. And the man named Ek, the engineer of the launch? A. Yes, sir.

Q. Did you check over the provisions at that time?

A. No, sir.

Q. Just the day before the vessel sailed—how far was it from Koggiung to Nushagak?

A. How far? I do not know. I have never been that way; you will have to ask somebody else.

Q. It took some time to go there and back?

A. Some time; yes, I guess they did take a day.

Q. Then, the day before the vessel sailed you said to Ek, who was engineer of the launch, that you did not have the peas? A. Yes, sir.

Q. And if he went over to where the "Thayer"

(Testimony of Harry Swanson.)

was to get some peas and bring them back to you?

A. Get little peas; it was nothing.

Q. For him to get peas and bring them back?

A. Yes, sir. [71—17]

Q. Did you tell the engineer of the launch there was anything else missing besides the peas?

A. I told him some flour.

Q. You got extra flour?

A. The flour we had, there was some wet and some damp; I tried to make bread, but I could not make bread.

Q. While we are on the flour, you still had flour when you reached San Francisco, didn't you?

A. Yes, sir.

Q. You had this big iron tank, and the water casks in the ship?

A. I do not know about the iron tank below deck.

Q. Didn't you ever go down in the hold and see it?

A. I was in the hold; I cannot remember; it was an iron tank.

Q. Do you know how much water it held?

A. No, sir.

Q. Did you use water out of the tank going up?

A. Yes, sir.

Q. Was the water all right that was taken out of the tank going up? A. Yes, sir.

Q. Was the water all right in the tank coming back? A. Yes, sir.

Q. How much water did you have in the tank coming back? A. I do not know.

Q. There was some left? A. Yes, sir, some left.

(Testimony of Harry Swanson.)

Q. Do you know what quantity of water it held, what size tank it was?

A. No, sir. The captain told me once, but I forget.

Q. Now, in addition to that you had seven casks, wooden casks, *wooden casks*, didn't you?

A. I do not know how many it was; five or six; that is what I was told, 5 or 6; I cannot remember how many. I cannot say for sure whether it was seven; 5 or 6.

Q. Do you know what size the casks were?

A. I don't know; they were big casks all right.

Q. Then you had one very large cask, didn't you?

A. One little white cask belonged to the vessel; it was standing [72—18] aft for drinking water just for the officers.

Q. Do you know how large that was?

A. I do not.

Q. Was the water in that all right?

A. Yes, sir, it was fine water there.

Q. You had 4 or 5 barrels of water besides the casks and iron tank, didn't you?

A. I do not know; I never was asked. There was a man giving me water that way; I do not know how many barrels there was; just the cask I see was standing on the deck.

Q. Do you remember being asked this question and answering it: the question that was asked you on your deposition out here the other time? I think you said you had five casks aboard and a big tank. "We had some barrels, 5 or 6 big barrels"?

(Testimony of Harry Swanson.)

A. I cannot remember exactly; it is a long time ago.

Q. But you had 4 or 5 barrels of water in addition to the iron tank, and in addition to the casks?

A. The rest of the people who was on board know that just as good as I do.

Q. You do not know what water the vessel had?

A. No, sir, I did not have anything to do with it.

Q. But those casks—when those casks were filled in Alaska ready for the voyage coming back who filled them, the members of the crew?

A. Members of the crew; I did not see that; I do not know that. They say they filled up some in Nushagak.

Q. You had two pigs still living, at the time you got ready to come back?

A. We had two pigs; we killed one in Alaska and the other one the captain sent over to Nushagak to give it for provisions because that is what they told me.

Q. Is that something you are guessing at?

A. That is what they told me, for provisions.

Q. Did you weigh this pig?

A. No, sir, but I can take a guess—the last pig we killed weighed 200 pounds, something like that.

[73—19]

Q. That is, dressed? A. Yes, sir.

Q. You killed that on the way down, didn't you?

A. We killed that up in Bering Sea when we were two or three days off.

Q. Off Koggiung or Unimak Pass?

(Testimony of Harry Swanson.)

A. Off Koggiung in Bristol Bay.

Q. You had fresh pork on board the vessel the first two or three days you were out? A. Yes, sir.

Q. You had lots of pork on board that vessel, didn't you? A. Yes, sir.

Q. You had lots of salt fish; did you serve salt fish to the crew? A. Yes, sir, I cooked it.

Q. You cooked the preserved fish? A. Yes, sir.

Q. Did you salt down this fresh pork?

A. Yes, sir, the cooper did it.

Q. There were 200 pounds of salt pork?

A. Something like that; it was not 200 pounds because I used some.

Q. How often did you serve the fresh pork—every day?

A. The fresh pork, no, I did not serve it every day.

Q. How often did you serve it?

A. There was one or two days between.

Q. One or two days between that you did not serve it? A. Yes, sir.

Q. How many days a week did you serve that fresh pork?

A. There was one or two days between each time I served it, one or two days between each time I served it for dinner.

Q. How much of it did you salt down?

A. I do not know; I used it a couple of times for dinner; I served it a couple of times for dinner, three dinners I guess, of it, and then the cooper salted down the rest of it. [74—20]

Q. Then you served salt pork after that?

(Testimony of Harry Swanson.)

A. It was not salt pork; I just took it off and put it in the barrel and then it was gone; I just had a little bit left for beans.

Q. Did you have bacon aboard the vessel?

A. I had three bacons on board when we left Alaska, 8 or 10 pounds apiece.

Q. Did you have an opportunity to catch fish on the way down? Did they catch fresh cod on the way down? A. Yes, sir, they caught some codfish.

Q. Did you serve that to them?

A. Yes, sir, I served that to them.

Q. On this list that you made out to be purchased from Mittendorf's store, did you put on the list any potatoes?

A. No, sir, but I asked Mr. Nelson for potatoes and he said we cannot get it up in Alaska, he said.

Q. You did not put on the list?

A. No, sir, I cannot remember it; maybe I put it on, but I do not think so, because I asked Mr. Nelson for potatoes and he says, "We cannot get them in Alaska, and you know you cannot; you cannot expect to get potates up here."

Q. You knew from your pervious experience that it is impossible to buy potatoes in that section of Alaska? A. What?

Q. You knew from your previous experience that it is impossible to buy potatoes in that section of Alaska in the summer-time? A. Yes, sir.

Q. And it is a fact that prior to the time you got ready to start back on your voyage, that the potatoes you did have rotted? A. Yes, sir.

(Testimony of Harry Swanson.)

Q. And you threw them away?

A. I did not throw them away.

Q. You did not throw any potatoes away?

A. No, sir, because if there are any potato peels left I give it [75—21] to the pigs for feed.

Q. What did you mean by saying you gave beans to them every day, that you gave beans to the crew every day?

A. I had to give them beans every day on the trip down when we do not have any potatoes; you have to give them beans or something for the salt fish and salt meat.

Q. You knew when you started from Alaska that you had no potatoes on that list that you made out for supplies to be had from Mittendorf's store, and you asked for beans, and put down the quantity of beans that you wanted?

A. Yes, sir. I do not know for sure.

Q. How many times a day did you serve those beans, three times or two times? A. Twice a day.

Q. How many days was it that you did not have beans?

A. It was for a week, something like that that we did not have beans; I cannot say that, exactly.

Q. You said you had no rice?

A. Only for a couple of days we had rice; I give them rice afterwards when the beans was gone.

Q. After the beans were gone, you served rice?

A. Yes, sir.

Q. How many times a day did you serve rice, once a day at dinner time?

(Testimony of Harry Swanson.)

A. I had only a little rice, only served it once a day at dinner time.

Q. Did you have any sago or tapioca?

A. I could not use it.

Q. You knew that there was sago on board the vessel when you got back? A. No, I cannot say.

Q. Don't you know that there was sago on board your vessel when you got back?

A. I know there was tapioca; I cannot say about sago.

Q. You had fresh fruit on board, and you served it every day until it was gone?

A. Not every day; one day and not the next, and then the next.

Q. Every other day? A. Yes. [76—22]

Q. You ordered fruit from Mittendorf's, didn't you? A. Yes, sir.

Q. That was delivered to you, was it not?

A. Yes, sir; I got some.

Q. Did you make any pies out of the fruit?

A. No, sir; I did not have fruit enough.

Q. You had onions on board the vessel?

A. A little.

Q. You used them for hash? A. Yes, sir.

Q. You had canned meat on board the vessel?

A. Yes, sir; I had to use onions and bread in the meat, to grind up the meat for hash.

Q. You had canned meat when you arrived in San Francisco? A. No, sir.

Q. When you arrived in San Francisco, didn't you actually have canned meat, and serve it?

(Testimony of Harry Swanson.)

A. No canned meat that I know of; maybe there was a little standing in the place, but there was none for the last 4 or 5 days, I believe.

Q. Were the sailors who were served in the forward part of the vessel given the same kind of food as those who were served in the aft part of the vessel? A. Yes, sir.

Q. Everybody got the same thing? A. Yes, sir.

Q. You had lots of butter? A. Plenty.

Q. So much butter, that you used it to fry things with? A. No, sir.

Q. Who did it,—some of the sailors?

A. I never seen anybody doing it.

Q. You also had bread and butter standing around, so the crew could eat it all night long?

A. We did not have enough for coffee; we were out of it a couple of days.

Q. As a matter of fact, didn't you have coffee boiling all night long so that the men could go in there during the night and drink coffee?

A. They got coffee at 12 o'clock at night, and 4 o'clock in the morning, I believe; there was a night cook; I [77—23] do not know whether he gave coffee.

Q. You don't know what was going on at night?

A. I could not stay up at night to see it, I had to be in my bunk sometime.

Q. You had lots of sugar left on arriving here at San Francisco, didn't you?

A. Not lots of it; I had maybe 8 or 9 pounds of sugar; there was brown sugar, but no white sugar;

(Testimony of Harry Swanson.)

I had a little left.

Q. Did you have eggs when you started back?

A. We could not use them; they were rotten, and we could not use them.

Q. Did you salt them down while in Alaska?

A. No, sir; we got salt eggs on board here in San Francisco; we could not use them.

Q. Couldn't you keep them up there?

A. No, sir.

Q. Did you have to throw away the eggs that were rotten,—did you actually throw them away?

A. I never throw away anything; I let them stand in the box, but they were rotten.

Q. You had lots of prunes on board?

A. Very little; they are included in the dry fruit; at night-time I changed off prunes, and fruit, I gave them fruit one day and prunes the next.

Q. Had you used up all your canned tomatoes before you left up there?

A. All the canned tomatoes was gone, maybe I had one or two cans on board, I cannot say that; I believe they were gone; I cannot say that; I had very little up there. Maybe there was one or two on board left.

Q. Did you see Pete Nelson yesterday?

A. Yes, sir.

Q. You had a conversation with him, didn't you?

A. Yes, sir.

Q. You told him you would come up here and testify for him to-day if he would give you a job this year? [78—24]

(Testimony of Harry Swanson.)

A. He says, Pete Nelson says, he asked me if I wanted a job. I did not want a job with him there; I had enough for two years.

Q. Didn't you go to Pete Nelson yesterday and tell him you would come up here and testify for him to-day if he would give you a job this year?

A. Yes, sir.

Q. Don't you know you, and all these other men, had been trying to secure a job from Pete Nelson to go back this year?

A. I don't know about the others; I had a job this year; I would not go with him; those two times was enough.

Q. Didn't you ask Pete Nelson if he wanted you to come up here for the trial?

A. He says to me, "You be there to-morrow." I says, "All right." I had my orders from the secretary of the union to be up here and not Pete Nelson's orders.

Q. Is the secretary here? A. Yes, sir.

Q. This man with glasses? A. Mr. Hyland.

Q. Didn't you ask Pete Nelson if he wanted you to come up here and testify?

A. No, sir; that I did not.

Mr. CAMPBELL.—That is all.

Redirect Examination.

Mr. HUTTON.—Q. You are working now, are you,—you have a job now, have you, here in San Francisco? A. Yes, sir; I have a job.

Q. Where are you working?

A. I am working in a clubroom.

(Testimony of Harry Swanson.)

Q. What club? A. Pohler's Social Club.

Q. Have you any intention of going back to Alaska this year? A. Yes, sir.

Q. You may go back? A. Yes, sir.

Q. Who ordered the stores in San Francisco before the ship left? A. Captain Nelson.

Q. Were they ordered before you joined the ship?

A. I do not know who ordered them; I believe he did. I never ordered any. [79—25]

Q. Were they ordered before you joined the ship or afterwards?

A. I know the stores came on board; when I had been on board of couple of days, then the stores came.

Q. Did you have anything to do with the ordering of them? A. No, sir.

Q. When you say Pete Nelson, you mean P. M. Nelson?

A. Yes, sir; we always say Pete Nelson up in Alaska.

Q. Was there any food taken from your vessel to some other place in Alaska?

A. Not from the vessel, but from the station; when we came up to the station we took the food ashore; then the other cook, he run short of food over in the other place in the "Thayer" and then they came over to me and got sugar and everything.

Q. Was that brought back? Did they bring back as much stuff as they took away?

A. No, sir; they did not bring back anything from there except a little peas, I got once on the last day; he promised me I would get everything back from

(Testimony of Harry Swanson.)

there, but I got very little.

Q. And that list you say you made up, how long was it before the vessel left Koggiung that you made that list up?

A. It was before Pete Nelson left. He left 14 days before we left up there. He left Alaska then. I did not know he was to leave. Nobody know he was to leave; he left fourteen days before we did.

Q. Did you put on the list the quantities that you wanted?

A. I did not put that on; we had plenty of time, and I thought Pete Nelson, he would know about that food; he was in the store with me; he knew exactly what I had.

Q. You did not put on this list how much of each kind you wanted? A. No, sir.

Q. You just simply put down the articles you wanted?

A. Maybe something I put down, I cannot remember that; maybe I [80—26] put down something; I cannot remember exactly.

Q. Who brought over to you the stuff that you did get?

A. Mr. Jacobson, on board of the "Thayer"; he runs a launch up in Alaska.

Q. Who had charge up there after Nelson left, if anyone?

A. I do not know; there was three or four bosses; I do not know how many. There were so many bosses there that I did not know who had charge of the place, exactly.

(Testimony of Harry Swanson.)

Q. Where was the captain of the "Roy Somers" during that time?

A. He was on board his vessel during the last days and was looking about when they were loading the vessel.

Q. Did you ever talk to him about the amount of towage you had before leaving Alaska?

A. I talked to him a little.

Q. What did you tell him?

A. I told him all we had. He says, "Yes, what shall we do about it," something like that. He knew we were short, too, they all knew we were short.

Q. You said you could not use the tapioca; why couldn't you use it?

A. That tapioca I used for tapioca was some we had; that tapioca Mr. Nelson gave to me I used that, but the captain of the "Roy Somers" he had some old tapioca that was standing since the "Roy Somers" was sailing on the coast there, so he told me, "You can see if you can't use that," he said to me.

Q. Could you use it?

A. The captain eat some; it was standing there, but I could not use it.

Q. Why?

A. It looks very bad, black stuff.

Q. The "Roy Somers" had been laying up before she went on that trip?

A. Laying up for 8 or 9 months, the captain told me.

Q. After the vessel left, you caught fish on the way down; about the codfish you caught on the way

(Testimony of Harry Swanson.)

down, how much codfish did you catch?

A. They caught very good codfish; they caught some codfish; they salted it down. I gave them fresh [81—27] codfish, and I gave them salt codfish.

Q. How many days were you on the fishing banks where you could catch codfish?

A. Probably 10 or 12 days about, I believe.

Q. Calm weather?

A. Yes, sir; but we could not fish every day. We was in that part where we could fish 10 or 12 days, but there was only once in a while they could fish.

Q. Did you speak to anybody up there before you left about not having enough food? A. I told—

Mr. CAMPBELL.—(Intg.) We object to that.

A. I told everybody on board.

Mr. HUTTON.—Q. Did you speak to any of the bosses? A. I told Ek about it.

Q. Who was he?

A. The engineer of the launch.

Q. This engineer of the launch? A. Yes, sir.

Q. What did he have to do with affairs up there?

A. Captain Nelson was gone; I did not know what I should go up there; I had to tell somebody, and he was running the launch.

Mr. HUTTON.—That is all.

Cross-examination.

Mr. CAMPBELL.—Q. Did you ever testify in this way in your deposition—this question was asked you up here: “Didn’t he,” referring to the engineer of the launch, “deliver to you all the stuff you ordered

(Testimony of Harry Swanson.)

except these peas?

A. Yes, sir; but he did not deliver enough of it.

Q. He delivered all you wanted?

A. All except peas; there was not enough." You got all that you ordered except the peas, didn't you?

A. Well, I cannot say for sure.

Q. Do you remember testifying when I asked you about this list that you made up with Captain Jacobson,—I asked you what did you do with the list: "Q. Was it after that that Jacobson [82—28] wrote the list for you? A. Before."

The COURT.—Does it make so much difference what he ordered, if the obligation is on the ship; can he evade the obligation by saying some cook did not order it?

Mr. CAMPBELL.—I do not say that; I am not sure that we are bound by that provision of the statute, as counsel says, but we may be subject to another one.

Mr. HUTTON.—The law is very clear on that.

Mr. CAMPBELL.—Here is a man that is suing because of a lack of adequate food, and we believe the evidence will show that he had it within his power to order this food that he needed, if he wanted to.

The COURT.—That may be true; if the obligation is upon the master or owner to furnish these supplies, can they be evaded by saying they were not ordered?

Mr. HUTTON.—I remember a very long time ago that I tried a case before Judge De Haven, where the charge was, a failure to supply certain articles,

(Testimony of Harry Swanson.)

and a similar question was raised there, to Mr. Campbell's theory here, and the judge held that it was not only the duty of the master to furnish them, but to see that the men got it.

Mr. CAMPBELL.—That was on a deep sea voyage.

Mr. HUTTON.—But the principle is there; it all comes in the same statute.

The COURT.—If these men do not come under the statute they are out; if they do come under the statute the obligation of the owner cannot be evaded by saying the men did not order it, or that any particular man did not order it. It was your duty to furnish it, see that it was furnished. I am only stopping it because it seems to me we are consuming a lot of time and not getting anywhere. [83—29]

Mr. CAMPBELL.—Q. Do you remember burning the list that Captain Jacobson made for you?

A. If I burned the list?

Q. Yes.

A. I do not know if I burned it; I could not tell you.

Q. Do you remember testifying in your deposition that you burned the list?

A. Maybe; I could not say for sure.

Q. The question was asked you: "What did you do with the one that Captain Jacobson wrote?"

A. I burned it up."

Q. Do you remember that?

A. I cannot say; it was a long time ago; maybe I burned it.

(Testimony of Harry Swanson.)

Q. What was the trouble—were you one of the men that had trouble with Captain Nelson about his refusing to let you take salt fish off of the vessel?

A. No, sir, I did not have anything to do with that.

Q. There was trouble between the captain and the crew, the crew wanted to take salt fish off the vessel and he would not let them?

A. I did not have anything to do with that; I had nothing to do with it; I only had the cooking.

Q. Didn't you testify in your deposition that Nelson was sore about that, and that there was a quarrel about that? A. I do not know, sir.

Q. There was trouble between Nelson and the crew about the crew taking fish off the vessel after they got back to San Francisco?

Mr. HUTTON.—I do not see that that has anything to do with the facts of this case.

A. I did not have anything to do with that; I was cooking.

Mr. CAMPBELL.—Q. You knew about this quarrel between Nelson and the sailors?

A. Yes, sir; I know we were starving aboard the vessel. That is what I know. I know on my own part of it. [84—30]

Q. Do you know about this quarrel between Captain Nelson and the sailors about taking fish off the vessel? Didn't Captain Nelson have trouble with the sailors after they got back here in San Francisco because they wanted to take fish off the vessel?

A. I could not say for sure if they had any trouble. I just had a little salmon. I just heard that. I did

(Testimony of Harry Swanson.)

not have anything to do with that.

Mr. CAMPBELL.—That is all.

[Testimony of Charles A. Nelson, for Libelant.]

CHARLES A. NELSON, called for the libelant, sworn.

Mr. HUTTON.—Q. You are one of the libelants in this case, are you not? A. Yes, sir.

Q. And you went up to Alaska on the “Roy Somers” and returned back last year? A. Yes, sir.

Q. On the way up did you have any opportunity of looking at the potatoes? A. Yes, sir.

Q. What did you do, if anything, with respect to the potatoes?

A. Sorting them and picking them out.

Q. When did you commence to sort them?

A. Somewhere around three weeks after we left from here.

Q. What kind of potatoes were they?

A. They were poor grade of potatoes.

Q. When you started to sort them what was their condition?

A. Well, part of them was rotten and commenced to grow, and of course one-third was wasted.

Q. On the way down did you have any potatoes served to you? A. No, sir.

Q. What was the kind of water that you had on the way down?

A. We had some bad water, not fit to be used; we had some parts good water, too. [85—31]

Q. What part was good water?

(Testimony of Charles A. Nelson.)

A. That was what they had in the main tank, and then one cask too.

Q. The other water, what kind of water was that?

A. That was brought from the station at Nushagak, brought in casks and they put the casks on board and that water was not fit to be used.

Q. Was that used?

A. Yes, sir, part of it, not quite all.

Q. How long was it used; that is, for how many days?

A. I do not know how many days; about two weeks.

Q. For cooking, how long was it used?

Mr. CAMPBELL.—Let this witness state what he knows about the cooking.

A. Anything that was cooked in the water you could taste.

Mr. CAMPBELL.—Q. What was your position on the vessel?

A. Sailor and fisherman.

Q. Did you have anything to do with the cooking there? A. No, sir.

Mr. HUTTON.—Q. Did you see the water used on the ship?

A. Yes, sir.

Q. Was any of the water from the casks used for cooking, to your knowledge? A. Yes, sir.

Q. For how long a period? A. Three weeks.

Q. Did you men up there have anything to do with getting that water? A. Not the main casks.

Q. Who put it on the ship?

(Testimony of Charles A. Nelson.)

A. It was some gang on the beach, and then the captain and some men; they were placing the barrels, but not filling them.

Q. Did you have any salt pork on the way down served to you as a meal?

A. Not that I can remember.

Q. Did you have any canned tomatoes served to you on the way down? A. No, sir.

Q. Did you have any peas served to you on the way down? [86—32]

A. Yes, sir, we had peas, but I do not remember how long exactly; I cannot tell you the exact time.

Q. Did you have beans served to you on the way down? A. No, sir.

Q. How many days were you short of beans?

A. 3 or 4 days; around there. I do not remember exactly now.

Q. Did you have rice served to you on the way down? A. No, sir.

Q. How many days were there that you should have got rice when you did not get it; do you know?

A. That I could not make a statement on.

Q. When did it give out?

A. That I could not make a statement on.

Q. Did you get any fruit on the way down?

A. We had a little dried fruit when we were first out.

Q. For how long? A. I cannot remember.

Q. Were there any pickles served to you on the way down? A. No, sir.

Q. Any onions served to you on the way down?

(Testimony of Charles A. Nelson.)

A. We had onions but not enough; we had onions enough to sprinkle on the corned-beef hash.

Q. Were onions ever served to you on the way down? A. No, sir.

Q. Was any mustard ever served to you on the way down? A. No, sir.

Q. Was any canned meat ever served to you on the way down?

A. Part of the voyage, at the start.

Q. Were there any days when you should have got canned meat, that you did not get it?

A. Yes, sir.

Q. Do you know how many days?

A. I could not tell you exactly.

Mr. HUTTON.—That is all.

Cross-examination.

Mr. CAMPBELL.—Q. What do you mean by the beach gang? [87—33]

A. Men that were working on the beach, the summer right through.

Q. You devoted your time up there in fishing in the boats, catching fish, and the beach men preserved the fish? A. Yes, sir.

Q. They were all part of your crew?

A. Yes, sir.

Q. You had nothing to do with the getting of this water at all? A. No, sir, not a thing.

Mr. CAMPBELL.—That is all.

Redirect examination.

Mr. HUTTON.—Q. Do you know where that water was gotten from?

(Testimony of Charles A. Nelson.)

A. They brought the bigger part of it in casks from Nushagak; I think it was the biggest part.

Q. How far is that from Koggiung, where you were?

A. I could not tell you; between 50 and 75 miles; 65 miles.

Q. How was it brought down? Brought down in a launch or lighter? A. In a launch.

Q. And who ran the launch?

A. Captain Jacobson at that time.

Mr. HUTTON.—That is all.

I have three other witnesses. Do you admit they will all testify substantially the same as this man?

Mr. CAMPBELL.—Let me finish with this man first.

Q. These periods of time that you have given are simply approximations on your part. You did not keep any record as to when you were sure of anything? A. I did not keep no record.

Q. And you have not thought very much about it since last September, have you?

A. When we just came down, first, in port, we made a statement.

Q. Did you make any complaint to the master on the way down? A. No, sir.

Q. You never did?

A. The captain and I were good friends; I made no complaint. [88—34]

Q. You made no complaint at all to the master about the food? A. No, sir.

Q. When you got down here you signed off before

(Testimony of Charles A. Nelson.)

the shipping commissioner without making any complaint?

A. Well, we had a little complaint; we made up our minds that we would take our pay; we made no complaint before we took our pay.

Q. What was the trouble between Mr. Nelson and you members of the crew about taking fish off the vessel, taking salmon; were you one of the men?

A. I had a little keg of salmon bellies; before we got out fishing we had no water-breakers in the water supply in the fishing boat, so he said he had none; but if that was the case he should have told the cooper to make some; Mr. Nelson said the boys would have to loan water-breakers, and he would allow them to take a little keg of salmon bellies in the fall.

Q. You did not have any trouble about the salmon?

A. No.

Mr. HUTTON.—Q. Those salmon bellies are not canned?

A. No, sir.

Q. They are either thrown away or salted?

A. They are generally thrown away.

Q. It is customary for men to bring salmon bellies down, a keg or two on the vessel?

A. Mr. Nelson told every one of us that we could bring a little keg down.

Q. Before you signed off before the shipping commissioner, you did make a demand on Nelson, didn't you, for compensation for shortage of food?

A. Yes, sir.

Q. All of the men did that? A. Yes, sir.

(Testimony of Charles A. Nelson.)

Mr. HUTTON.—That is all.

Mr. CAMPBELL.—Q. How much did you ask in dollars and cents?

A. We asked between the ten fishermen \$500.
[89—35]

Q. There were only ten of you then that were making the demand at that time; is that right?

A. Yes, sir.

Q. This \$500 was to be divided between ten men out of the 25?

A. Yes, sir, but after that the fishermen, the beach men came in the case too.

Mr. CAMPBELL.—That is all.

Mr. HUTTON.—Q. You spoke about a list that you had made up of the shortage before you arrived in San Francisco after you arrived here?

A. We made a statement what we had.

Q. Did you sign that? A. Yes, sir.

Q. Was your memory fresh on it then? Did you remember just the days you were short at that time?

A. At that time, yes.

Q. Is your name on that?

Mr. CAMPBELL.—I object to the witness seeing the document until we have an opportunity of inspecting it.

Mr. HUTTON.—I just asked if his name was on that.

Mr. CAMPBELL.—Never mind the typewritten part; just point to the signature? A. Yes, sir.

Mr. HUTTON.—Q. Was this made up under your direction?

(Testimony of Charles A. Nelson.)

A. All directions.

Q. All of you together? A. Yes, sir.

Q. Who made it up? A. We made it up.

Q. Can you look at that now and tell how many days you were short of food and what you were short of on any particular day?

Mr. CAMPBELL.—May I have an opportunity of examining him?

The COURT.—You may.

Mr. CAMPBELL.—Q. Where was this made up, —in the lawyer's office?

A. No, sir, in our secretary's office; in the secretary of the union's office.

Q. Who type wrote this, the secretary of the union? A. I believe so. [90—36]

Q. Don't you know? A. Yes, sir.

Q. Did you see him do it?

A. No, sir, I did not see him do it; nobody else would do it.

Q. Did you dictate to him what you wanted written on this paper? A. Not me, the others.

Q. Did he write it down at that time?

A. We just made a statement, did not write it down.

Q. And then you all, all of you men signed your names here? A. Yes, sir.

Q. What is your name? A. Charles Nelson.

Q. Did you keep any record on the voyage at all as to the number of days you were out of stuff?

A. No, sir, I did not keep any record.

Q. You could not have told the first day when you

(Testimony of Charles A. Nelson.)

arrived in San Francisco just how many days you did not have pork, could you?

A. Yes, sir, pretty close.

Q. Could you tell accurately how many days you did not have pork when you first arrived in San Francisco?

A. At that time we could tell pretty close.

Q. What would you say it was?

A. I do not know; at that time we could tell; we would not be out of the way one day *one day* at that time because we knew it. I did not keep track of it since.

Q. Were you able to tell when you got to San Francisco how many days you did not have beans?

A. Yes, sir.

Q. And were you able to tell upon your arrival in San Francisco how many days you did not have these other articles? A. Yes, sir.

Q. How many days was it that you did not have beans?

A. I do not know exactly now. As I stated before, it is a long time and I did not keep track of it; I think it was 4 or 5 days but I do not remember; I do not remember the exact number of days. [91—37]

Q. Who made up this list—who helped make up the list?

Mr. HUTTON.—He already said they were all together?

A. All together.

Mr. CAMPBELL.—Q. How did you agree upon the number of days of each one of these shortages?

(Testimony of Charles A. Nelson.)

A. All of us.

Q. After talking it over amongst you?

A. We all knew it.

Q. You did not keep any record upon it?

A. I did not keep no record about that.

Mr. CAMPBELL.—I object to the use of the document for the purpose of refreshing his memory.

The COURT.—The objection is overruled.

Mr. CAMPBELL.—Exception.

Mr. HUTTON.—Q. Look at that, Mr. Nelson, and tell us the amount of food and the number of days you were short of different articles of food that you testified to. Refresh your memory from that paper as to how many days you were short salt pork?

A. Short salt pork for 26 days.

Q. How long?

A. We had no pork for 26 days.

Q. And the next article, how many days were you short on that?

A. No potatoes or yams for 29 days.

Q. And the next?

A. No canned tomatoes for 29 days.

Q. And the next?

A. No canned peas for 22 days; no beans 7 days; had rice twice on the voyage, 29 days. No coffee for two days; no molasses for 29 days; no fruit of any kind for 25 days; no pickles of any kind for 29 days; no onions with the exception of four dozen which were sprinkled in the corned beef hash; no mustard for 29 days.

Mr. CAMPBELL.—Q. Who counted up the four dozen onions, did you?

(Testimony of Charles A. Nelson.)

A. No, sir, the cook.

Q. This statement contained in here in regard to the four dozen [92—38] onions is what somebody told you?

A. I did not count the onions. The cook would be able to prove that.

Q. You do not know whether that statement is true?

A. If we had any more we would have had more onions.

Q. You do not know whether that statement is true, about there being only four dozen onions?

A. I could not tell you exactly.

Mr. CAMPBELL.—That is all.

[Testimony of Antone Jansen, for Libelant.]

ANTONE JANSEN, called for the libelant, sworn.

Mr. HUTTON.—Q. You were on the “Roy Somers” on her last voyage, were you not, on her voyage up North to Alaska and return? A. Yes, sir.

Q. What were you doing on her?

A. Fisherman and sailor.

Q. You men all ate together, did you not?

A. Yes, sir.

Q. And you all got your food in the same place?

A. Yes, sir.

Q. What kind of water did you get on the way down?

A. The water was on the bum—most of it; we had some good water; part of the water was good and some of it was on the bum.

(Testimony of Antone Jansen.)

Q. Bad water used? A. Yes, sir.

Q. Where did the water come from?

A. From Nushagak, that was bad.

Q. Did you men have anything to do with putting on the vessel? A. Not us.

Q. Did you have anything to do with the potatoes, and if so, what? A. Helped sorting them.

Q. You helped sorting them? A. Yes, sir.

Q. How long was it before you started to sort them? [93—39]

A. After we left San Francisco and were two or three weeks out; I could not tell you exactly.

Q. What kind of potatoes were they?

A. They were not of much account.

Q. What was the matter with them?

A. Part of them were spoiled.

Q. Much wasted in them? A. Yes, sir.

Q. On the way down did you get any salt pork?

A. I think we got some the first few days; I do not remember how long.

Q. Was that salt pork out of the barrel or the pig they killed?

A. It must have been out of the barrel; it was very little good.

Q. How many days that you should have got it?

A. I do not know exactly; 20 days anyway.

Q. You got no potatoes on the way down, did you?

A. No, sir.

Q. Any canned tomatoes? A. No, sir.

Q. Any peas?

A. I could not tell you; we were short, I do not

(Testimony of Antone Jansen.)

know how long; I do not know how many we had.

Q. Were you short of beans at any time?

A. Yes, sir.

Q. How long?

A. A few days the last part of the trip.

Q. Were you short of rice at any time?

A. Yes, sir.

Q. You say you were short of beans; did you get any beans at all at the time you say you were short?

A. No, sir.

Q. Did you get any rice at the time you were short?

A. No, sir.

Q. Did you get any fruit on the way down?

A. We had some drier fruit when we started.

Q. How long did that last? A. 5 or 6 days.

Q. Did you get any pickles at all on the way down?

A. No, sir.

Q. Did you get any onions on the way down?

A. A few.

Q. Were there any onions served to you as a meal?

A. No, sir. [94—40]

Q. Did you get any mustard on the way down?

A. No, sir.

Q. Did you have any canned meat on the way down? A. Yes, sir.

Q. How long did that last, if at all?

A. We were short of it 3 or 4 days; I do not know just how long.

Mr. HUTTON.—That is all.

Cross-examination.

Mr. CAMPBELL.—Q. Did you make any com-

(Testimony of Antone Jansen.)

plaint to the master about the food?

A. Yes, sir, on the way coming down.

Q. What did you say?

A. I told him we were short of grub.

Q. What did you say to him?

A. I could not say anything.

Q. What did you say?

A. I said he was short of grub.

Q. When did you say that to him?

A. I could not say.

Q. What day was it?

A. I do not know exactly.

Q. About what day?

A. After we left Unamak Pass.

Q. What did you say to him when you went to him?

A. I asked him what to do about it. He said he could not do anything himself.

Q. What did you say to him?

A. He said he could not very well do anything; there was nothing on board.

Q. What did you say?

A. I said we were short of grub.

Q. Is that all you said to him?

A. And the water was spoilt.

Q. Did you personally go to him, you yourself?

A. The other men was all talking to him every day, the mate and all.

Q. The water in the bank tank was all right?

A. Yes, sir.

Q. The water in the five barrels was all right?

A. And the one cask, the main tank was pretty good.

(Testimony of Carl Patsel.)

Q. That was the tank that was aft?

A. Yes, sir.

Q. Could anybody help themselves to get it?

A. Yes, sir. [95—41]

Q. Anyone could help themselves to drink out of that barrel?

A. Yes, sir, they had a bucket there.

Q. Did you ever complain about any specific article of food because you did not have a sufficient amount?

A. Yes, sir.

Q. What one? A. No fruit.

Q. Did you mention the specific article to the captain? A. I mentioned everything.

Mr. CAMPBELL.—That is all.

Mr. HUTTON.—Q. Do you know how much water you had left when you came in here?

A. I could not tell you.

[Testimony of Carl Patsel, for Libellant.]

CARL PATSEL, called for the libellant, sworn.

Mr. HUTTON.—Q. Mr. Patsel, you were on the “Roy Somers” on her last trip? A. Yes, sir.

Q. What did you ship as?

A. Sailor and fisherman.

Q. You were sailor and fisherman?

A. I was beach gangman and then they put me in the boat, and I was fishing.

Q. What kind of water did you have coming down?

A. Rotten.

Q. Where was the water gotten from?

A. Out of casks, barrels.

Q. Where did you get it from, in Alaska?

(Testimony of Carl Patsel.)

A. I do not know where they got it from, but they got it from Nushagak, I know, because I see the launch *in* the barrels with it.

Q. Some water you got yourself there?

A. Yes, sir, that was good water.

Q. Do you know how much water was left on the ship when you got in? A. No, sir.

Q. Did you get any salt pork on the way down?

A. A little that was from the fresh pig they killed. I guess they thought if they did not kill that they would have died. [96—42]

Q. Did you have any potatoes on the way down?

A. No, sir.

Q. Did you have any canned tomatoes served to you on the way down? A. No, sir.

Q. Did you have any pig served to you on the way down? A. For a few days.

Q. How long did it last; I cannot just tell you how long it lasted.

Q. Were you short of beans at any time?

A. Yes, sir.

Q. How many days, do you know?

A. Six days I know for sure.

Q. How about the rice?

A. Rice, we had it twice.

Q. You had rice twice on the trip?

A. Yes, sir.

Q. How about coffee?

A. I know we had coffee for awhile, and I remember the coffee disappeared; we had no more.

Q. Did you have any fruit? A. A little.

Q. For how long?

(Testimony of Carl Patsel.)

A. From the beginning for about two weeks I guess.

Q. Did you have any pickles on the way down?

A. No, sir.

Q. Did you have any onions of any kind served to you as a meal? A. No, sir.

Q. Did you have any mustard? A. No, sir.

Mr. HUTTON.—That is all.

Cross-examination.

Mr. CAMPBELL.—Q. Now, Mr. Patsel, will you tell me the trouble you had with Mr. Nelson about the salmon?

A. I had no trouble with Mr. Nelson about the salmon.

Q. What was the trouble that you had with him about the extra pay?

A. After we was going out fishing,—I signed on at \$35 a month, and he took me out of the beach gang and sent me out fishing where I had to work night and day, and there was no rest for me to get sleep; when I came ashore I got about two hours sleep and then he sung out on the dock, to get [97—43] to work again. I see no reason why I should not get more money.

Q. The truth was one of you fellows got hurt?

A. Yes, sir.

Q. And you volunteered to take his place?

A. No, sir.

Q. Didn't you volunteer to take his place?

A. I could not say no.

Q. You wanted his pay instead of the injured man

(Testimony of Carl Patsel.)

receiving his pay?

A. No, sir, I wanted the pay that the union calls for; I signed supposed to get paid, and I am supposed to get paid what I make in pay.

Q. The result was you and Nelson had a very bad quarrel? A. Yes, sir.

Q. And then you also had a quarrel about your taking a barrel for the packing of your fish?

A. No, sir, I never had a barrel for packing my fish.

Q. Did you have any trouble about bringing your salmon? A. No, sir.

Q. Was not coffee served all night on that vessel, at any hour of night? A. No, sir.

Q. Did you make a try to get it?

A. Yes, sir, when I had watch on deck.

Q. Could you not get it? A. No, sir.

Q. Never at any time?

A. No, sir; we got it at 12 o'clock and when we went below again.

Q. 4 o'clock? A. 4 o'clock.

Q. What time did you try to get it and failed?

A. I went there and asked the cook; he says "No, you cannot have it, you can only have it when it is time." That coffee was made at 8 o'clock at night and kept there until 4 o'clock.

Q. Where did you get this water?

A. I did not get it. I know they got it at Nushagak; it was already in barrels.

Q. Where were the barrels put, in the iron tank?

(Testimony of Carl Patsel.)

A. I never watched that; I know they dumped some water in the tank; the other water was put in barrels aboard. I do not know where the rest of the water was.

[Testimony of Axel Peterson, for Libelant.]

AXEL PETERSON, called for the libelant, sworn.

Mr. HUTTON.—Q. Peterson, you are one of the libelants in this case, are you not? A. Yes, sir.

Q. You went up and came down on the “Roy Somers” on her last voyage? A. Yes, sir.

Q. All you men ate together on the vessel and got the same kind of food, didn’t you? A. Yes, sir.

Q. What kind of water did you have coming down?

A. It was rotten.

Q. Do you know how much water she had left when she got in?

A. I could not tell you; I do not know how much she had; that is for him.

Q. Was the water all gone from the casks on deck when she came in?

A. Yes, sir, that was all gone.

Q. How many days was that before she got into San Francisco? A. I could not tell you.

Q. Did you get any salt pork on the way down?

A. I never saw anything.

Q. Did you get the same food as the other men got?

A. Yes, sir.

Q. Did you get any potatoes or yams on the way down? A. No, sir.

Q. Did you have any canned tomatoes on the way down? A. No, sir.

(Testimony of Axel Peterson.)

Q. You had no canned tomatoes or other tomatoes?

A. No, sir.

Q. Did you have any peas?

A. We had peas for three days, I guess; that is all we had.

Q. Did you have any beans?

A. We had beans; when we got along, [99—45] we were short of beans 5 or 6 days before we got here.

Q. Did you get rice all the way down?

A. Three times before we got in is all we had. I guess they were short of that, too.

Q. How about fruit?

A. We had some dried fruit; that lasted a few days.

Q. Did you have any pickles? A. No, sir.

Q. Did you get any onions?

A. We had onions in the hash.

Q. Did you ever have onions served out as a meal?

A. No, sir.

Q. Any mustard? A. No mustard.

Q. Did you have canned meat?

A. We had some corned beef a couple of times; we had some corned beef I guess that was left up there; that was all, and we had it as long as it lasted.

Q. Did you have anything to do with sorting out the potatoes on the way up?

A. No, sir, I did not sort any.

Q. Did you see it done?

A. I saw it done a couple of times.

Q. Did you see the potatoes as they were sorted out? A. Yes, sir.

(Testimony of Axel Peterson.)

Q. What kind of potatoes were they, good or bad?

A. The worst kind of stuff, not much account; they were as bad as they could be.

Mr. HUTTON.—That is all.

Cross-examination.

Mr. CAMPBELL.—Q. How many bushels were there to a sack? A. I could not tell you.

Q. Did you see the sacks? A. No, sir.

Q. You are the man who had the quarrel over the salmon berries with Captain Nelson?

A. I never had much quarrel; he said I could have salmon bellies; I told him I had some; I guess the rest had the same thing.

Q. Didn't you have trouble with Nelson about packing codfish? A. No, sir. [100—46]

Q. Didn't you pack codfish against his order?

A. In Alaska?

Q. Yes. A. Coming down I salted some down.

Q. In Alaska didn't you quarrel with him about packing codfish?

A. With Nelson, no. He was not on the ship.

Q. Did you talk to Peter Nelson about it?

A. No, sir, he did not have anything to do with it.

Q. Didn't he tell you not to use the ship's barrels for the packing of fish and you insisted on doing it?

A. He told me not to use the barrels.

Q. And when you got down here to San Francisco you took 150 pounds of fish off the ship?

A. I did not.

Q. Didn't you have a quarrel with Pete Nelson about taking fish off the ship?

(Testimony of Axel Peterson.)

A. He asked me if I had any fish; I says "Yes"; he says I had it in barrels, what you call kegs. I says "I catch some for the table for eating."

Q. When you got here you took off the ship one-half a keg of fish, 120 pounds of salmon bellies?

A. I can tell you I guess everybody in Alaska do the same thing; I have been going up quite a few years.

Q. Words passed between you and Pete Nelson about taking fish off the ship?

A. He spoke to me, he asked me if I had fish; I says "Yes, I have some." He says "That is all, you have it away now"; that is all I heard about it; I guess the rest had the same thing. I guess they had three or four times as much as I had.

Mr. CAMPBELL.—That is all.

Mr. HUTTON.—Q. The codfish you caught yourself? A. Yes, sir.

Q. Nelson was not engaged in catching codfish?

A. I caught it myself; I used it on the table, you know.

Q. And you had one keg of salmon bellies?

A. Yes, sir, and a keg of codfish? [101—47]

Q. Where did you catch the codfish, in Alaska or on the ship?

A. Outside of Bering Sea, coming home.

Mr. CAMPBELL.—Q. Didn't you have trouble at that time with Peter Nelson about the cask you were using? You had trouble with him; he insisted on your using your own cask, and you wanted to use the ship's cask, didn't you? A. No, sir.

(Testimony of Axel Peterson.)

Mr. HUTTON.—Q. How much is a cask worth?

A. I cannot tell you.

Q. Is it worth as much as 25 cents?

A. I guess 25 cents. I used it for my own use.

Q. Was it a second-hand cask? A. Yes, sir.

Q. Was it used before you got it?

A. I had the codfish in it, brought it from San Francisco myself. I used it for salmon; I took it on the voyage.

Q. Did they look about the same size, both of them? A. Pretty near the same size.

Q. How much did you pay for the one you took up from San Francisco? A. Four-bits.

Q. 50 cents? A. Yes, sir.

Mr. HUTTON.—That is our case, your Honor.

(A recess was here taken until 2 P. M.) [102—48]

AFTERNOON SESSION.

Mr. HUTTON.—I expect a certified copy of the shipping articles here in a few minutes, if the Court please, and with that exception we close.

[Testimony of David Davis, for Respondent.]

DAVID DAVIS, called for the respondent.
Sworn.

Mr. CAMPBELL.—Q. What is your business, Mr. Davis?

A. Wholesale groceries, dairy produce and provisions.

Q. Have you any connection with the firm of Dodge-Sweeney & Company of this city?

A. Yes, sir.

Q. Do you know whether Dodge-Sweeney & Com-

(Testimony of David Davis.)

pany outfitted Captain Peter Nelson's vessel last spring when he went to Alaska? A. Yes, sir.

Q. The schooners "C. A. Thayer" and "Roy Somers"? A. Yes, sir.

Q. Have you any knowledge as to the character of provisions that were furnished by Dodge-Sweeney to Mr. Nelson? A. Yes, sir.

Q. Were any potatoes furnished? A. Yes, sir.

Q. Will you kindly explain to the Court the condition of the potatoes?

A. The best that could be procured in the market.

Q. What do you mean by saying the best that could be procured in the market?

A. Well, you know in the spring of the year potatoes are not as good cutters as they are earlier in the season, or later; it is between seasons; it is too early for the new potatoes and the old potatoes more or less will not keep any great length of time. The great trouble with potatoes—all our trouble with potatoes, shipping them to Alaska is on account of their going bad; you see, the potatoes are put in bins or storehouses and kept there, and when they are taken out [103—49] they are not firm, and the bad ones are thrown out; they resprout and that is the trouble with shipping potatoes up north.

Q. How long have you been engaged in your present business? A. 29 years.

Q. From what you know of the potatoes that were furnished to these vessels, and your knowledge of the condition of the potatoes to be obtained in the market at that time, or season of the year, will you state

(Testimony of David Davis.)

whether or not any better potatoes could have been procured than were furnished to Captain Nelson?

A. Absolutely not; there could not be better potatoes procured than were furnished to the "Roy Somers" or the "Thayer." As I related before, we all have trouble with potatoes.

Q. Did you have charge of making up the account of the purchases which were made by Captain Nelson for the vessels? A. Yes, sir.

Q. Can you without referring to the itemized account there, tell the Court in general the character of provisions which he purchased for those vessels?

A. Everything that Captain Nelson purchased through the Dodge-Sweeney Company was of the best goods, all standard merchantable goods.

Q. Can you now tell the Court the different varieties of articles of food that were purchased?

The COURT.—If you have an account there I suggest that would be the most expeditious way of finding it out.

Mr. CAMPBELL.—Is this the account of the supplies that went to the vessel?

A. Yes, sir.

Q. I notice the account is only made to the "C. A. Thayer" and owners?

A. Yes, that is correct. That is the way we charge all the goods going out to vessels, as the Spreckels Company or the Matsons. [104—50]

Q. Then this account also includes the goods going to the "Roy Somers," not the "Thayer"; the "Roy Somers" has a bill of theirs. I think each ves-

(Testimony of David Davis.)

sel was charged separately.

Q. I hand you this package of bills and ask you whether or not that is the account of the provisions which were furnished to the "Roy Somers" by your firm?

A. Yes, sir. These are our bills, and were our goods, the goods we sold to Captain Nelson.

Q. Are all the articles mentioned there?

A. Yes, sir.

Q. Could any better goods of their kind be purchased in the market? A. No, sir.

Mr. CAMPBELL.—I offer these bills in evidence.

(The bills are marked Respondent's Exhibit "A.")

Mr. CAMPBELL.—That is all.

Cross-examination.

Mr. HUTTON.—Q. How many sacks of potatoes did you furnish?

A. That I could not tell offhand. I think—

The COURT.—Q. Are they shown on the bills?

A. I think that will show on the bill, the number of sacks.

Mr. CAMPBELL.—Q. Did you receive the order?

A. I received it.

Q. Do you remember how many were ordered?

A. No, sir, I could not tell you offhand.

Q. Now, before the potatoes that were furnished were taken to the "Roy Somers" they were sorted, were they?

A. Yes, sir.

Q. And some of them had deteriorated?

(Testimony of David Davis.)

A. Yes, sir, some of them had deteriorated.

Q. And it was to be expected, I presume, that they would deteriorate to some extent?

A. There is no question about that. They would not keep, all of them, the summer through.

Q. Do you ever handle Australian potatoes?

A. No, sir. [105—51]

Q. Don't you know, for anyone else going to Alaska fishing in the way Nelson does use Australian potatoes?

A. I never heard of them taking Australian potatoes; I heard of them taking Australian onions.

Q. The potatoes in March and April of each year get so they are in bad condition?

A. They are not so bad; of course they are not like the ones in the fall of the year, naturally.

Q. Don't you know, as a matter of fact, that Australian potatoes can be had in the market?

A. I never heard of them.

Q. Of course, then you do not know anything about them?

A. Not Australian potatoes.

Mr. HUTTON.—That is all.

The COURT.—Q. What percentage of the potatoes are reasonably expected to deteriorate at the end of the season, from the time you furnish them until they get bad in September?

A. That all depends upon how long you keep them; as I related before there is none of the packers that goes north that does not have a great deal of trouble with potatoes. One of the largest firms here

(Testimony of David Davis.)

says the worst feature of their business was to get potatoes, and some of them have vessels that go up there with potatoes, to supply them from every six to eight weeks, and they might be able to get some new potatoes later on.

Q. Potatoes will deteriorate from the time they are furnished to the end of September?

A. Yes, sir, more or less.

Q. Would that not be obviated by taking a larger supply?

A. No, sir, I think they would take a larger supply, but as I understand it the potatoes are not firm and they will sprout, and they have to be taken out of the sacks.

Q. That could be obviated that way?

A. Yes, sir.

Q. For how long?

A. I would not expect to say; 3 or 4 weeks.

Mr. HUTTON.—Q. How many pounds of potatoes are there in a sack?

A. They vary, anywhere from 125 to 140. [106—52]

Q. Have you any knowledge of the method the Alaska Packers carry on their provisions as to potatoes?

A. They buy the same grade of potatoes that everybody else does that ships up there; they all buy the very best, because the very best of them will probably give them more or less trouble before they return.

Q. Personally you do not know that?

(Testimony of David Davis.)

A. Personally, I do not know just exactly what the Alaska Packers buy, because I never did any purchasing of potatoes for them.

Mr. HUTTON.—That is all.

[**Testimony of Peter M. Nelson, for Respondent.**]

PETER M. NELSON, called for the respondent, sworn.

Mr. CAMPBELL.—Q. Are you the “P. M. Nelson” who is made a defendant in this case?

A. Yes, sir.

Q. Did you send the two schooners “C. A. Thayer” and “Roy Somers” to Alaska on a fishing expedition last year? A. Yes, sir.

Q. Which of the two vessels did you own?

A. I owned the “C. A. Thayer”; the “Roy Somers” I chartered.

Q. From whom did you charter the “Roy Somers”?

A. From a man by the name of Tietzen; I do not know his initials, but his name is Tietzen.

Q. Those vessels were sent north by you to catch salmon in Bristol Bay, in the waters that run into Bristol Bay? A. Yes, sir.

Q. And salt them down and then bring the salted salmon back to San Francisco? A. Yes, sir.

Q. How large a vessel is this “Roy Somers”?

A. How many tons, I could not tell you.

Q. About how many?

A. A vessel about 300 tons; that is rough. [107—

(Testimony of Peter M. Nelson.)

Q. Had you ever chartered her before for this business?

A. That was the first year I chartered her.

Q. That was the first year you chartered her?

A. Yes, sir.

Q. Who was the master of her?

A. Captain Soland.

Q. When you came to take the vessel in the spring of the year to send her to Alaska, who attended to the purchasing of the provisions?

A. I attended to that myself.

Q. From whom did you largely purchase your provisions?

Q. Practically all from Dodge-Sweeney & Company.

Q. How long had you been engaged in sending fishing vessels to Alaska in a similar business as this?

A. My own private concern, since 1882.

Q. And how long have you been engaged in fishing up there?

A. I have been going, I have been engaged and going to Alaska every summer straight, since 1885.

Q. What can you say as to the character of the provisions which you purchased for the "Roy Somers"?

A. I can say nothing else but that I tried *to best* that money could buy and to buy enough, as we always have done, and the two vessels were fitted out practically alike.

Q. Do you know what water-tanks the "Roy

(Testimony of Peter M. Nelson.)

Somers'' has in her?

A. Well, she had a big tank in the hold that would hold about 1,000 gallons, and then she had a cask right in front of the cabin that would hold about 150 gallons I am not sure, but somewhere around that; and then we had 4 or 5 or 6, I cannot remember just exactly, casks that came from Willard Brothers; and had them scrubbed out; coming back we had 1340 gallons of real good water in barrels, and them casks were for washing purposes and other uses; for the men in the morning to wash their face and hands.

Q. The iron cask you remember carried how much? A. 1,000 gallons. [108—54]

Q. And the wooden cask on deck you said held about 150 gallons? A. Yes, sir.

Q. In December you bought some other casks from Willard Brothers? A. Yes, sir.

Q. And put those in the hold of the vessel?

A. On deck.

Q. Did you have them filled?

A. They were filled last winter in Oakland, California, scrubbed out; but they were not intended by me to be used for cooking purposes or anything of that kind because there should be enough water for cooking purposes without using them.

Q. How many of those casks did you buy?

A. 5 or 6; they held about 90 gallons apiece.

Q. When you came back from Alaska you got another cask?

A. We did not have very good water, and I had a cooper make a cask that held about 200 gallons.

(Testimony of Peter M. Nelson.)

Q. And you put that on board the vessel?

A. Coming back.

Q. And you had been using it in Alaska for drinking water?

A. Drinking water and all purposes.

Q. Where was the water obtained from in Alaska with which the tanks and casks were refilled for the return voyage?

A. The water we had in Koggiung is not very good; in Nushagak we had a fine spring, the water ran out of the ground, and before we left Alaska we take all those casks to Nushagak and took all the water there, and we pumped it from the launch, the men hoist some of the casks, but most of it is pumped, and we fill the large tank and all the casks.

Q. How far did you have to go to get this good water? A. To my estimation about 70 miles.

Q. What was the matter with the water right at Koggiung?

A. That is marsh land water; it gets stagnant. We dug a well there for our private use, but it took too much time to [109—55] pump it; it was cheaper at Nushagak, where we had a pipe running right down to the wharf, to get better water.

Q. When did you leave Alaska?

A. As near as I can remember, either the 27th or 28th of July.

Q. How did you come down?

A. In mail boat from Nushagak, as far down as Seward, and I got the Northwestern to Seattle, and from Seattle the Shasta Limited, home.

(Testimony of Peter M. Nelson.)

Q. Did you leave before the "Roy Somers" left?

A. Sure.

Q. What place is there in Alaska where provisions can be procured for your vessels?

A. The principal place is this Mittendorf store at Nushagak.

Q. How far is that from Koggiung?

A. That is about 78 or 80 miles, I should judge.

Q. Is Mr. Mittendorf here in town now?

A. Yes, sir, he is right here now.

Q. What orders, if any, did you leave for the provisioning of your vessel, the "Roy Somers" for the return voyage?

A. Before I came down in the mail boat I instructed the cook at Nushagak first while there, and then I took the launch to Koggiung and instructed the cook to make out a store list of what he needed. I went to see what he had in the storeroom, but I did not like to interfere with him. I says, "Make out a store list of what is necessary to come back on as the cook at Nushagak is doing the same thing; in a day or so he came with the store list. I asked him if he had got enough and he says, "Yes, I think this is all I need."

Q. Enough for what?

A. To come down on, to take him down on the return trip.

Q. Did you in any way restrict the amount he should order at Mittendorf so as for him to have enough to come down with?

A. Not been any consideration. [110—56]

(Testimony of Peter M. Nelson.)

Q. Who took the order over to Mittendorf?

A. I do not know; if I am not mistaken, I could not swear, but I think Captain Jacobson took it over to Mittendorf's.

Q. Did you take it over?

A. No, sir, either the engineer or Captain Jacobson.

Q. Was any restriction placed by you at Mittendorf's store of the quantity of provisions which were to be furnished to these two vessels to come back on?

A. No, sir, none; Mittendorf was instructed to fill up the whole order as it was made out.

Q. Did you ever change that order? A. Not I.

Q. Did you ever interfere with him in any way?

A. Not a thing in any way whatever.

Q. Who was Mr. Ek?

A. He was the engineer of the gasoline launch.

Q. Did you ever give Mr. Ek or Captain Jacobson any instructions to write the quantity of food that should be purchased by the cooks?

A. No, sir, that I did not.

Q. How did the provisioning of your vessel for this voyage to Alaska compare with that of other seasons?

A. Practically about the same; you take off some of one thing and you add more of another; you figure out from one year you have a little more of one and a little less of something else; you use more of one thing and less of another; that is, you use butter and milk and sugar, I took more butter and milk and

(Testimony of Peter M. Nelson.)

sugar than the year before, and I also had more potatoes.

Q. How many pigs did you take?

A. I had six pigs when I started out from San Francisco and we had three at Koggiung and three at Nushagak; the Nushagak pigs were smaller than the Koggiung pigs, the Koggiung pigs turned out better; I made Mr. Mittendorf a present of two of the small pigs at Nushagak, and [111—57] I took one pig over to Nushagak, and they had two at Koggiung.

Q. When you left Alaska to come out in July, were those two pigs still alive in Koggiung?

A. They were all alive, as far as I knew.

Q. What would be your judgment of the weight of those pigs?

A. Them Koggiung pigs were excellent pigs; one of them grew up fine, and in my judgment weighed about 250 pounds before being killed, and about 200 pounds dressed.

Q. What would you say as to the other one?

A. About 25 pounds less.

Q. Has it ever been customary on this voyage to Alaska to carry salt pork such as vessels carry on deep sea voyages?

A. They always carry more or less; you do not know how much they will take; sometimes you will be short of one thing and have more of another; if they get all they ask for that is all you can do; you naturally become short of one article and have more of another; the thing would be to give them just their

(Testimony of Peter M. Nelson.)

rations and no more, so as to be sure.

Q. Did you have the cook of the "Roy Somers" go over the list of provisions in San Francisco before the vessel sailed to see whether they were sufficient supplies for the purpose of the voyage?

A. He had all the provisions, and to go over them; in fact he was instructed to stay on board to see that he got everything he wanted; furthermore, he was instructed that if he did not have enough to let me know.

Q. What were you planning on, enough to go up or for the whole trip?

A. For the whole round trip; to go up and come back again.

Q. Is there any steamer or vessel going from Seattle or San Francisco to Koggiung in the summer-time?

A. Once a month. [112—58]

Q. And she comes from Seward?

A. Yes, sir, and connects with steamers at Seattle.

Q. Did you have any trouble in Alaska with any of these men who testified this morning?

A. I never had no trouble with them; what I call real trouble; I never had any real trouble I mean; they grumbled and kicked and were discontented; we do not find a man going to Alaska that will not do the same, but not have any serious trouble.

Q. Did you have any trouble with these men taking fish off the vessel either up there or down here?

A. It has been reported to me; may I explain that?

Q. Go ahead.

(Testimony of Peter M. Nelson.)

A. I always let every man take one-half a barrel of salmon bellies provided he asks for it; I have instructed if he did not ask to let them have it; some man decided to take some and not ask; Mr. Peterson, the gentleman who is here, took some salmon bellies going down which I did not like, as he did not ask for them; but that is all right; coming down he took some codfish barrels. Mr. Patsel did not have trouble with me; he is a young fellow, and is going to be a man; fellow that is looking for tea he can get it—that is, whiskey. A man like him ought to attend to business.

Q. Did you have trouble with him?

A. Last year he begged me to take him up.

Q. What was the trouble?

A. Discontented in all ways.

Q. What was the quarrel you had with him?

A. He used to go out with the fishermen and help them to discharge the boat, and when he came back he wanted to get extra pay; he was getting \$12 a month; he signed on for that, and I would not allow him more; I would not give him any more; I never ordered him to go in fishing, I never did that myself.

Q. Have you ever had trouble before with your fishermen in [113—59] regard to not feeding them sufficiently?

A. I do not know for sure; there is not a man born yet, you will have some fellows kicking; you cannot hire a cook to satisfy those men; they are always kicking.

Q. Did you ever have a suit brought against you?

(Testimony of Peter M. Nelson.)

A. Not me, individually, no.

Mr. CAMPBELL.—That is all.

Cross-examination.

Mr. HUTTON.—Q. Is it not a fact that there have been complaints every year about the food on your vessels?

A. It will always be; there is no man born that could satisfy everybody.

Q. If you met the requirements of the law they could not have any kick coming?

A. If you deal them just exactly their rations and no more and no less.

Q. Is it not true that some two or three years ago the men complained and were going to sue you for shortage of food and you paid them something like \$250 or \$200 to avoid a suit?

A. I do not remember exactly; I think I was short of butter.

Q. And other things?

A. No, sir, I do not think anything else.

Q. Was there not a general complaint last year about the food on your vessel?

A. I have no record of it.

Q. How much did you pay, \$200 or \$250?

A. I do not remember exactly.

Q. It was one or the other, was it not?

A. I do not remember; it might have been one or the other.

Q. Do you remember how many years ago that was?

A. Three years ago, that there was such a thing.

(Testimony of Peter M. Nelson.)

Q. Was there not complaint made last year when the men came in and didn't they threaten to sue you?

A. I did not have complaint last year. [114—60] 60]

Q. What vessel did you go up in?

A. In the "C. A. Thayer."

Q. When you left San Francisco where were the six pigs, on the "C. A. Thayer"?

A. Three on the "Thayer" and three on the "Roy Somers."

Q. This trip was one of ordinary duration; it was not an extraordinary long trip, *as it?*

A. About as usual.

Q. And the ship got back about the same time?

A. Yes, sir.

Q. You had trouble before with potatoes going bad on your previous trips, did you not?

A. Every one of them has that; you cannot buy potatoes that is good.

Q. You knew, did you not, these potatoes were likely to go bad on you when you left San Francisco?

A. I did not know that, no.

Q. Don't you know some of the concerns fishing up there, to avoid that trouble use Australian potatoes?

A. I never knew that; I knew that that North Alaska Company was short of potatoes in July, and they did not have a potato after that, and there has been no complaint about that, and things like that.

Q. Have you taken Australian potatoes yourself?

A. I did not know of any; I knew of onions.

Q. You were not there when the food was placed

(Testimony of Peter M. Nelson.)

on the "Roy Sommers," whatever food was placed on there from Mittendorf's store?

A. I was not there.

Q. Were you in Alaska at that time, or had you left?

A. The time I was there they got it from Mittendorf's store, but they were not placed on the "Roy Somers."

Q. You went away before whatever supplies were put on board? A. Yes, sir.

Q. Your water up there is the finest kind of water?

A. Yes, sir.

Q. At the fishing station?

A. Koggiung you mean?

Q. Yes. [115—61] A. Good water.

Q. Who ordered the stores from Dodge-Sweeney & Company here? A. I ordered them myself.

Q. Do you know when you put the order in?

A. About two weeks before the ship left.

Q. The cook had nothing to do with putting the order in? A. No.

Q. As a matter of fact the order was put in before the cook was hired?

A. No, sir, he was hired before that.

Q. Before he joined the ship? A. Yes, sir.

Q. As a rule they do not join the ship until a day or so before the ship goes out?

A. I could not state the date, I always get my cook on board a few days before starting, so he can see that they have got everything that is down on the list.

Q. During the season up there while preparing for

(Testimony of Peter M. Nelson.)

fishing and during the fishing you were near Koggiung?

A. Two or three days in one place, and two or three days in another place; I was two or three days at Koggiung and two or three days at Nushagak, and then I would go back again to Koggiung.

Q. Half of the time was in each place?

A. Yes, sir.

Q. You had a store at Koggiung? A. Yes, sir.

Q. When you got to Koggiung the stores were taken off the "Roy Somers" and taken to the storeroom and kept in the storeroom there to be used on shore? A. Yes, sir.

Q. Was that done under your supervision?

A. Not under my supervision; I was not there when they were taken ashore; they had instructions from me to put the stores in the storeroom.

Q. When you returned to Koggiung and during the time you were there you at times went into the storeroom [116—62]

A. Sometimes I came over there; not every trip; once or twice a week I looked in the storeroom and sized the stores up, but I never interfered.

Q. You were the superintendent when you were there? A. When I was there.

Q. And everybody had to obey your orders, of course? A. I suppose so.

Q. What day did the cook give you that list of supplies up in Alaska?

A. You want to know the exact day?

(Testimony of Peter M. Nelson.)

Q. About how long before you left; before you personally left?

A. I should think about the 21st or 22d of July, as far as I can remember.

Q. Three or four days before you left?

A. About four days before I left.

Q. Did you yourself go into the storeroom and take the list with you and check it up?

A. I did not check anything in the storeroom; I did not take no stock; I only wanted the cook to get what he wanted, and to be sure to get enough.

Q. You never examined it yourself to ascertain whether the list was corect, or not?

A. I did not interfere with the cook; I wanted him to have all he wanted, so he would have enough.

Q. I am simply asking you if you went into the storeroom to ascertain what you had there and took the cook's list with you and checked it up?

A. I did not check up anything in the storeroom; I told the cook to get whatever he needed, whatever was necessary.

Q. You did not examine the list when the cook gave it to you, to see whether you had enough?

A. I left that to the cook to get enough; I told him to get enough.

Q. You arrived in San Francisco before the "Roy Somers," did you not, sometime?

A. Yes, sir, about a week.

Q. What was the total water capacity of the vessel? [117—63]

A. I am not sure, but there was over 1300 gallons

(Testimony of Peter M. Nelson.)

of the best kind of water, and six or 700 gallons poor water for washing purposes, as near as I know; the captain can state that.

Q. You had from 1900 to 2,000 gallons of water in the tanks and barrels, when they were full?

A. Yes, sir.

Q. Have you any idea of what capacity the big tank has on the "Roy Somers"?

A. About 1,000 gallons.

Q. Did you ever measure it?

A. No, sir, that is the captain of the ship said so; he is the master of her four years.

Q. And your barrel capacity was that?

A. 150 to 200 gallons absolutely first class water.

Q. How many barrels had you? Five or six?

A. I am not sure, either five or six.

Q. And the capacity of each barrel was how much?

A. 90 gallons.

Q. You say there were six, that would be 540 gallons? A. Yes, sir.

Q. And with that 1000 gallons it made 1540?

A. There was one cask of 150 gallons.

Q. 1540 gallons and one cask of 150 would make 1690 gallons; that was her capacity?

The COURT.—He says he had another one of 200 gallons; it would be 1890.

A. Somewhere around that neighborhood.

Q. That was practically the capacity of the vessel?

A. Yes, sir.

Q. Was any complaint made to you when the "Roy Somers" arrived in Alaska, about there being

(Testimony of Peter M. Nelson.)

a shortage of water? A. No, sir.

Q. The “Roy Somers” had been used as a lumber vessel during her whole career, prior to that trip, had she not? A. Yes, sir.

Q. Carrying lumber from Gray’s Habor down here?

A. I do not know where she had carried the lumber from; I could not tell you.

Mr. HUTTON.—That is all. [118—64]

The COURT.—Q. Did the mail boat carry any freight? A. I think she did.

Mr. HUTTON.—Q. Do you know what date the “Roy Somers” arrived there?

A. In Alaska?

Q. Yes.

A. I could not say that. Captain Soland knows, and he can tell you when he gets on the stand.

Q. Do you know what day she left San Francisco?

A. The 22d—do you mean for Alaska?

Q. Yes. A. The 22d of April.

Q. Did you leave after that or before?

A. I left the day after her in the “C. A. Thayer.”

Q. And you arrived in Alaska before she did?

A. Just about the same day, just the same day practically.

Mr. HUTTON.—That is all.

[**Testimony of L. Soland, for Respondent.**]

L. SOLAND, called for the respondent sworn.

Mr. CAMPBELL.—Q. You are Master of the schooner “Roy Somers”?

Q. How long have you been master of that vessel,

(Testimony of L. Soland.)

Captain? A. A little more than 17 years.

Q. Coasting trade on this coast?

A. Coasting trade and once to Mexico and once to Honolulu.

Q. With what water-tanks was the "Roy Somers" permanently fitted? A. For Alaska?

Q. As she was used in the coasting trade?

A. Well, she had an end tank that would hold 1000 gallons, which was in the hold; and then she had casks on deck, that would hold 150 or 175 gallons.

Q. How about that tank and cask being there all the time you were master of her?

A. No, sir, I got a new tank about eight [119—65] years ago.

Q. From the time that iron tank was put in her and the casks put on her, for what purpose was the water used which was carried?

A. Used for eating and drinking.

Q. Did you ever find the water in the iron tank or in the casks on deck to have been tainted at all, or was it good water? A. It was good water.

The COURT.—It is conceded here that the water in the tank and casks was good water.

Mr. CAMPBELL.—Q. What extra casks did Mr. Nelson put on board?

A. He brought on *about* big casks, that held 150 gallons apiece, I should judge.

Q. He had eight casks put on that held 150 gallons apiece? A. Yes, sir.

Q. When you came to come back from Alaska did he put on another extra cask besides the eight?

(Testimony of L. Soland.)

A. Yes, sir, he put on another cask besides the eight.

Q. How long would you say that extra cask was?

A. In the neighborhood of 100 gallons.

Q. Was any complaint made to you about the water, going up? A. Not going up, no.

Q. When you came to get ready to come down to San Francisco what was done towards refilling these casks with fresh water?

A. They were taken away from Koggiung over to Nushagak, cleaned there and refilled again.

Q. Was the iron cask refilled?

A. The iron cask was refilled; that was filled again from my casks that was brought from Nushagak.

Q. Why did you go to Nushagak for water instead of getting it at Koggiung?

A. We considered it was the best water we could get.

The COURT.—Mr. Nelson said it was cheaper.
[120—66]

A. He had a spring running over to the waterfront.

Mr. CAMPBELL.—Q. Was there any complaint made to you about the water coming down and if so what did you do?

A. A couple of times they complained that the tea was bad.

Q. Where was the cook taking that water from?

A. That is more than I know; it must have come from some of those casks on deck.

Q. What did you do when the complaint was made?

(Testimony of L. Soland.)

A. I told him to take it from the casks on deck.

Q. Weren't you using the water in the iron tank?

A. That commenced being bad, and we wanted to use the other as long as possible so as not to be short.

Q. How many days were you on the voyage coming down? A. 29.

Q. How many men were there on board the vessel?

A. 26.

Q. Did you have any water left in the iron tank when you reached here?

A. In the neighborhood of 75 gallons.

Mr. HUTTON.—Q. When you got in?

A. Yes, sir.

Mr. CAMPBELL.—Q. Now, as to the feeding of the men, was there any difference in the character of the food which was given to the sailors in the fore-castle and that which the men were eating in the cabin? A. Not that I know of.

Q. Who ate in the cabin aft?

A. The three mates, the cooper, beach boss and the cabin boy and myself, certain men.

Q. Did you hear any complaint about the food?

A. Not especially to me, but I heard some kicking going on between themselves, but not exactly made any kick to me about it.

Q. Did any of these men who were on the stand this morning come and make complaint to you that they did not have sufficient food? A. No, sir.

Q. Did anyone come to you and claim they did not have sufficient food? A. No, sir. [121—67]

Q. Did anyone come to you and complain about

(Testimony of L. Soland.)

the way the food was being cooked by the cook?

A. They were all complaining the grub was not good enough, they were kicking about the cook.

Q. Do you know when these pigs that you had at Koggiung, do you know when they were killed?

A. Yes, sir, one was killed two or three days before we left there.

Q. When was the other one killed?

A. The other one was killed 5 or 6 days, something like that, after we left there.

Q. Do you know what the combined weight of the two pigs was?

A. No, sir, I do not; I consider one was about 200 pounds, and the other between 150 and 175.

Q. What was done with the pork? Was it salted down?

A. Part was salted down and part given as fresh meat.

Q. When you started on the first voyage did you have any pork from the first pig left?

A. Yes, sir, we had about one-half of it.

Q. Did you have any ham or bacon aboard the vessel? A. We had some bacon.

Q. Were you present during the conversation that Mr. Nelson referred to that he had between him and the cook, as to the ordering of new provisions from Mittendorff?

A. I heard Mr. Nelson mention once to the cook to get whatever he wanted from Mittendorfs.

Q. Did you hear anything said by the cook as to the quantity he had on board?

(Testimony of L. Soland.)

A. The cook told me he had thirty-five days of grub.

Q. Told you? A. Yes, sir.

Q. Was any restriction that you know of placed on the cook as to what he should order?

A. None whatever.

Q. Was there any discussion between you and the cook as to the quantity of beans that you had on board? A. No, sir. [122--68]

Q. Was there any fruit served on the vessel during the voyage down?

A. Yes, sir, there was fruit served.

Q. Did you have any prunes and dried apricots?

A. We had prunes and dried apricots some of the way.

Q. Did you have any rice aboard?

A. We had some rice, but I do not think that lasted very long.

Q. Do you recall whether you had any canned tomatoes on the voyage down? A. I cannot.

Q. Do you recall whether you had any rice?

Mr. HUTTON.—He said the rice did not last very long; he said he had some rice, but it did not last very long.

Mr. CAMPBELL.—Q. Do you recall whether you had any cheese coming down?

A. We got one big cheese, yes.

Q. Did you serve that with macaroni?

Mr. HUTTON.—It is not a substitute; the law says what these men shall get; if they do not get what the law says, it gives the substitute.

(Testimony of L. Soland.)

Mr. CAMPBELL.—Q. Did you have one big cheese coming down?

A. Yes, sir.

Q. Did you have any complaint made to you of a shortage in coffee? A. No, sir.

Q. Was there any complaint made about shortage of butter and bread?

A. We had plenty of butter and bread all the way.

Q. Did you have any flour left on your arrival here? A. About 500 pounds.

Q. What was done about serving coffee and bread to the forecastle, the members in the forecastle—how was coffee and bread and butter served on board the vessel?

A. They had coffee and bread and butter at midnight and 4 o'clock in the morning, and for breakfast and for dinner there was coffee served, for dinner too, most of the time. [123—69]

Q. Did you have any rolled oats or oatmeal aboard?

A. We had oatmeal.

Q. Did you run short of that on the last part of your trip on the way down?

A. We had it every morning coming down.

Q. Did you run short of sugar? A. No, sir.

Q. Did you run short of butter? A. No, sir.

Q. Did you have any onions left on the vessel when you arrived in San Francisco?

A. I had one dozen onions left when I arrived here.

Q. In San Francisco? A. Yes, sir.

Q. Did you run short of canned meats?

A. Well, the canned meats we ran out of, but I do

(Testimony of L. Soland.)

not think they were short of it, because there was meat cut up when we arrived here?

Q. There was meat when you arrived here?

A. Yes, sir.

Q. What canned meat was that?

A. Australian mutton.

Q. What size tin was it put up in?

A. It was put up in these 8-ounce tins, one pound tins, square tins.

Q. To whom was it served after your arrival here in San Francisco?

A. It was not served after we arrived here, but it was standing on the plate after we got in, in the pantry.

Q. Was there any tapioca left on the vessel when she arrived here? A. Yes, sir.

Q. How much?

A. Between 10 and 20 pounds, something like that—20 or 25 pounds, I could not say.

Q. Have you made up a list in the last few days of the quantity of food that is still on board the vessel left over from last year's voyage?

A. Yes, sir, I did.

Q. Have you been using out of this food during this winter? A. Yes, sir. [124—70]

Q. Does this list include anything that was added to the food left there from last fall?

A. It includes only what was left there.

Q. How much rye flour did you have?

A. 200 pounds.

Q. How much tapioca? A. 25 pounds.

(Testimony of L. Soland.)

Q. How much pearl barley? A. 25 pounds.

Q. Was that on the vessel coming down?

A. Yes, sir.

Q. You had 300 pounds of white flour?

A. Yes, sir.

Q. How many pounds of sago was left on the vessel? A. 25 pounds.

Q. How much corned beef? A. 40 pounds.

Q. How much butter? A. Nine squares.

Q. How many pounds are there to a square?

A. 2 pounds to a square.

Q. Was there any tomato catsup left there?

A. Yes, sir, two bottles.

Q. Was there any Worcestershire Sauce?

A. Yes, sir, two bottles.

Q. Did you have any pepper?

A. One pound of pepper.

Q. Any allspice? A. One pound.

Q. Any cayenne pepper. A. One pound.

Q. Any baking powder?

A. Three pounds, six tins.

Q. What can you say as to whether or not the provisions that were furnished the crew on your vessel on this voyage were of sufficient quantity and quality as compared with the usual provisions for vessels engaged in the American coasting trade?

A. They were all good provisions.

Q. What can you say as to the quality of them, whether or not they were good provisions?

A. They were good provisions.

Q. What can you say as to the quantity,—what in

(Testimony of L. Soland.)

your judgment can you say as to their quantity?
Did you run short of provisions? [125—71]

A. We were not short of anything to speak of; we were short of a few small things like tomatoes and canned fruit.

Mr. CAMPBELL.—That is all.

Cross-examination.

Mr. HUTTON.—Q. When was it the cook told you that he had 35 days' food?

A. The day before we left Alaska.

Q. Did he tell you that he had 35 days of every article of food, or 35 days' food?

A. He had sufficient provisions for 35 days.

Q. You had an ordinary trip, didn't you?

A. An ordinary trip, yes.

Q. You ran pretty close, having only three days' water when you came in?

A. Well, the water was wasted a great deal.

Q. You had a water-tender, did you not?

A. There was a man in charge of it, yes.

Q. You personally had not anything to do with the water, or the replacing of stores in Alaska, had you?
A. Not in the least.

Q. Who had charge of that?

A. Between the cook and Mr. Nelson.

Q. Did Captain Jacobson have anything to do with it?
A. He made out a list, I understand.

Q. Captain Jacobson or Captain Nelson did the ordering, didn't they, one or the other?

A. Yes, sir.

Q. And who took the supplies aboard your ship?

(Testimony of L. Soland.)

A. They were taken aboard mostly by the fishermen.

Q. How did they get down to your vessel?

A. They were brought down on the steam launch.

Q. Did you see it brought down?

A. I saw it brought down, yes.

Q. Did the cook talk to you then about it?

A. No, sir.

Q. Did he say anything?

A. Nothing. [126—72]

Q. Did you ask him whether he had enough of each article? A. No, sir.

Q. You knew you did not have some of this food aboard, didn't you?

A. I did not pay any attention to it.

Q. Your staple articles of food on the way down were bread, salt fish and beans, was it not?

A. That was the principal thing, yes.

Q. Did you have any molasses?

A. There was a gallon of molasses on board there.

Q. Was there any served on the way down?

A. I do not think so.

Q. Did you ever go forward to see what the men got to eat? A. I never did, no.

Mr. HUTTON.—That is all.

Redirect Examination.

Mr. CAMPBELL.—Q. Was that molasses on board coming down?

A. Yes, sir, I have got a gallon of molasses on board there now.

(Testimony of L. Soland.)

The COURT.—Q. Why should any of the water be bad?

A. That is more than I can account for; them barrels there—there must have been something in them barrels before they were bought that altered the water, and it turned bad, but we had plenty of good water for cooking and drinking.

Mr. HUTTON.—Q. It did not go bad in the same barrel going up north, did it?

A. I do not know; we had good water going up; we used them casks going up.

Q. It was in the same barrel? A. Yes, sir.

Q. And the water you got from the well in Koggiung was good water? A. Yes, sir.

Q. And it was only the water that came from Nushagak that was bad?

A. Some of that and some of them casks; some of them casks was good water, and I had between 11 and 12 gallons of extra good [127—73] water there that belongs to the ship.

Mr. CAMPBELL.—Q. As I understand it, the water that was put in the iron tank also came from Nushagak? A. Yes, sir.

Q. Did that turn bad coming down?

A. No, sir.

Q. How did that water compare with the water you got at Koggiung? Was it as good as that, or not?

A. It was the best water we could get; the best water we got from Nushagak; that water that came

(Testimony of L. Soland.)

from Nushagak beat the water we got from Koggiung.

Q. From Nushagak? A. Yes, sir.

Q. And it was piped down from the spring in iron pipes? A. Yes, sir, and a wooden pipe.

Q. In your judgment was it as good or as bad as the water that came out of the well at Koggiung?

A. It is better.

Mr. HUTTON.—Q. What was the matter with the water at Koggiung?

A. Nothing, practically the matter with it.

Q. I thought I understood you to say a little while ago that you filled up the iron tank out of the barrels and then sent the barrels to Nushagak to get filled?

A. They were first taken over to Nushagak and filled, and then they were brought over in the schooner and filled in the iron tank.

Q. Did that water turn bad? A. No, sir.

Q. It did not? A. No, sir, it did not.

Q. Did you ever go up to Nushagak?

A. Yes, sir, I was up there, not on that trip.

Q. When were you up there?

A. I was up there just before the fishing season started.

Q. How much bad water did you have aboard?

A. Well, I could not say; 5 or 600 gallons.

Q. And you used all of that?

A. That was used for washing things with. [128

—74]

Q. For cooking?

(Testimony of L. Soland.)

A. It was not used for cooking, not that I know of; they complained the tea was bad twice.

Mr. HUTTON.—Q. The men did complain to you twice; you do not know how many times it was bad?

A. Twice in the tea they complained, that the tea was bad.

Mr. CAMPBELL.—Q. Who made that complaint, the sailors, or the men who were eating in the same place that you were there?

A. The men who were eating in the same place that I was.

Mr. CAMPBELL.—That is all.

[Testimony of Ed. Nelson, for Respondent.]

ED. NELSON, called for the respondent, sworn.

Mr. CAMPBELL.—Q. What was your job on the “Roy Somers” in Alaska?

A. I did not work on the “Somers” at all; I was the cooper.

Q. And in Alaska did you put the casks together, or head up the casks which were filled with fish?

A. That I did.

Q. Which?

A. I head up the cask; the cask is all made; the barrels are all made and the head is taken out, and filled with fish, and I headed them up.

Q. Did you have anything to do with the preparing of these casks in San Francisco which were purchased by Mr. Nelson and put aboard the “Somers”?

A. Yes, sir, I did.

Q. What did you do?

A. I took the heads out, and there were two men

(Testimony of Ed. Nelson.)

working with me, and we cleaned them up, scrubbed them, and I put the heads on back again and secured them, and filled them with water, and they stood there 4 or 5 days full of fresh water, and then we dumped the water out and rescrubbed them, and I headed the barrels up again.

Q. Who assisted you in doing that?

A. I done the heading myself, and in scrubbing the barrels Anderson and Englund helped me. [129—75]

Q. When you got ready to come back from Alaska did you have anything to do with preparing the casks for the return voyage? A. No, sir.

Q. Was there any complaint made about the water going up? A. Not that I heard of.

Q. Did you go to Nushagak?

A. No, sir, I stayed in Koggiung.

Q. On the way down did you hear any complaint about the water being bad?

A. I did; there was one particular cask that had been smashed in in handling it, and the head had been damaged; there was a big bang in the head, and it was possibly smashed in, and I suppose some iron water got in the cask and that stunk considerably; that was the only one. The others was not bad; they had lots of good water.

Q. Was the water in the iron tank tainted at all?

A. No, sir, the water in the iron tank was perfectly good.

Q. How large were these casks?

A. Six of them or seven, held 90 or 92 gallons, and

(Testimony of Ed. Nelson.)

there was one that held 200 or 250, and the water-cask that lay on the schooner, that holds something like 150 or 160 gallons, and then there was some barrels we used for water-breakers on the launch, and those barrels held an extra 100 gallons, 50 gallons each; they was also full of water.

Q. Was there any time when you were compelled to drink or use tainted water on the voyage down?

A. No, sir, never; one morning I turned out and the water-tender was pumping water out of the cask, the smelling water, and I says, "What do you use that water for, we have plenty of fresh water, you do not have to use it." Instead of dumping that water out he dumps it in the barrel where the cook had his cooking water, and that is the water he made tea from, and that is when the complaint was made.

Q. Did you see the quantity of provisions before you started? A. Yes, I did. [130—76]

Q. Had the pigs been killed before leaving Koggiung?

A. We killed one pig two days before we left, a big pig weighing 175 or 200 pounds.

Q. How much do you think of that pig was left when you started?

A. We had about one-half left when we left Koggiung, and then 4 or 5 days out we had another pig that we killed, and that weighed about 250 pounds dressed, and the rest we salted, we salted some of that and ate the rest.

Q. How did you salt that down?

(Testimony of Ed. Nelson.)

A. In the big barrel; and that was used later.

Q. Did you have any beef or canned meats aboard?

A. We had all we used, all we needed according to my way of thinking.

Q. Did you have canned meat or hash on the voyage?

A. We had plenty of meat and we had some left over here.

Q. What meat was left when you arrived here?

A. Some canned mutton, Australian mutton.

Q. Did you have any corned-beef that you recall?

A. We had part of the time; the latter part, I think, the corned beef—I mean the canned corned beef was used, but we had mutton and salt corned beef.

Q. Did you have any corned beef left when you reached San Francisco?

A. I think we had. I do not know how much he had left, but there was some left.

Q. Was there any time on the voyage that there was a shortage so far as you know of meat?

A. No, sir, there was plenty of meat.

Q. Did you have all the bread and butter you wanted? A. Yes, sir.

Q. Was there a shortage of coffee?

A. The last couple of days.

Q. Were you served tea on those days?

A. In place of coffee.

Q. Was there any day on the voyage when you did not have either coffee or tea? [131—77]

A. No, sir, there was not.

(Testimony of Ed. Nelson.)

Q. Did the sailors forward in the forecastle get the same food as you had to eat in the aft part?

A. I suppose they did; I am not acquainted with that because I was not in their dining-room, but I think they served the same things forward as aft.

Q. Did you hear any complaint at all made about the food?

A. At one time the second mate complained about the tea, yes; that was the time that I refer to when he dumped that rotten water in the water barrel, and the cook made tea out of that water; that is the only thing.

Q. Were you present during any conversation in Alaska between Mr. Nelson, the owner, and the cook in the presence of Mr. Soland about the provisions of the vessel for the trip down? A. Yes, sir.

Q. What took place?

A. In our sleeping department, the cook came and handed Mr. Nelson the list that he made out, and Captain Nelson asked him if he had everything that was necessary to bring him home, and the cook says yes.

Q. Was there anything said that you recall as to your having provisions for any number of days?

A. Yes, sir, the cook stated when we left—that was after Mr. Nelson left Alaska, and the cook stated to the captain,—we were playing a game of cards in the evening and the cook said then to Captain Soland and myself that we had plenty of provisions for 35 days.

Q. Did you notice the cook throwing any food

(Testimony of Ed. Nelson.)

away overboard?

A. I noticed that there were things cooked and prepared, that was not served.

Q. What became of it?

A. Well, that I never saw, I never saw anything thrown overboard, but there was stuff prepared [132—78] and laid out, and when it was not used, off it went.

Q. Did you have any conversation with the cook before you arrived here about the beans?

A. Yes, sir, that took place after; I asked him about the provisions, whether the provisions were holding out, and the captain asked him if the provisions were holding out; he said that he had provisions enough, that he had beans for 13 days; the next night the cook says, "No more beans"; that was about 3 or 4 days before arriving in San Francisco, maybe 4 or 5 days; I don't recall exactly.

Q. Did you have any rice aboard?

A. We had some rice, yes.

Q. Did you have any pearl barley served you?

A. I think so; I do not know.

Q. Do you know whether there was any tapioca or sago? A. I do not.

Q. What was done with the flour?

A. Made bread out of it, and had buns part of the way; the latter part I think we were a little short.

Q. What can you say about the maccaroni?

A. It was fine; that was used; the last of it was used the last part of the trip, and we had some

(Testimony of Ed. Nelson.)

maccaroni the last part when there were no more beans.

Q. Did you have any bacon on the trip?

A. We had some bacon.

Mr. CAMPBELL.—That is all.

Cross-examination.

Mr. HUTTON.—Q. The principal article of food was salt fish, was it not?

A. We had some salt fish too.

Q. You had that every meal? A. No, sir.

Q. You had it every day?

A. Every day, yes.

Q. Do you know whether any canned meat was served?

A. There was no more on Wednesday prior to the day they arrived. [133—79]

Q. The vessel got here on Monday, didn't she?

A. I think it was Monday.

Q. Do you know whether canned meat was served out to the crew for food on Monday the week before she arrived; that is, one week prior to the day she arrived?

A. I cannot recall, but I think we had meat every day; this particular day I cannot say.

Q. As a matter of fact you do not know what the crew got to eat, do you? A. I do not.

Q. Are you any relation to Mr. Nelson?

A. No, sir, I am not.

[Testimony of Oscar Jacobson, for Respondent.]

OSCAR JACOBSON, called for the respondent, sworn.

Mr. CAMPBELL.—Q. Were you captain of the “C. A. Thayer”? A. Yes, sir.

Q. Did you have anything to do with the making up of a list together with the cook of the “Roy Somers” for the provisions which that vessel was to have coming home? A. Yes, sir.

Q. Tell the Court all about that list?

A. He said to me, “I am not very good at writing English,” he said, so he wanted me to help him to do it; so I wrote it down and then he copied it in his own handwriting. I told him, “You had better do it and then they will think you have done it.”

Q. What list was this you were making up?

A. That was the list for the return trip from Alaska.

Q. Who told you to write that? A. The cook.

Q. Did Mr. Nelson ever tell you not to order any of the stuff on the list?

A. No, sir; many times that we ordered stuff from Mr. Mittendorf’s store, and he never knew anything about it.

Q. That is, Mr. Nelson never knew anything about it? [134—80]

A. No, sir, because the cook makes out the order, and tells us about it, and we get it from Nushagak.

Q. Was there any restriction at all places upon the quantity of food that was ordered?

A. No, sir.

(Testimony of Oscar Jacobson.)

Q. Was there any complaint made on your vessel coming down about the food? A. Mr. Hu—

Mr. HUTTON.—I do not think that is material what happened on the “Thayer.”

The COURT.—The objection is sustained.

Mr. CAMPBELL.—Q. Who took the list to Nushagak to be filled? A. I did.

Q. Was it filled? A. Yes, sir.

Q. Who brought the goods back to the “Roy Somers”? A. I did.

Q. While you were in Alaska what were you doing?

A. I was running the gasoline launch during the summer; that is, the biggest part of the time.

Q. You were captain of the gasoline launch?

A. Yes, sir.

Q. Were those goods delivered to the cook of the “Roy Somers”?

A. When we came back to the wharf at Koggiung I went up to the cook and asked him where he wanted this stuff left, what he wanted left on the wharf, and the rest that was going to be taken out to the schooner, and he came down and told me which stuff he wanted left on the wharf and what stuff he wanted taken out to the schooner.

Q. Did he check up the stuff at that time?

A. No, sir, he did not; but we went back, before we went back—I stayed around there 4 or 5 days running back and forth, and the cook said there were some peas that were short.

Q. How many days was that before the vessel sailed?

(Testimony of Oscar Jacobson.)

A. A little over a week, and then Mr. Ek—

Q. (Intg.) Who is he?

A. He is the engineer of the launch. He said to the cook, "I will try to get some" because I was [135—81] going to bring him back to Nushagak a little before the schooner left, and then one of the sailors who was along was to take the launch back again, as the launch stayed at Koggiung; we were figuring on sailing out without a boat. I was there for a few days, and then went back, and in the meantime he said he had no peas, and the engineer said he would try to get some from the "Thayer."

Q. How far was Koggiung to Nushagak?

A. About 60 miles.

Q. How far was it from Koggiung to Neusig?

A. 60 miles; it is the same distance; when you go you go up the river, so it is about the same distance.

Q. Koggiung is half way between?

A. No, sir, Neusig is on a branch river.

Q. Did you have anything to do with the getting of the water for the "Somers"?

A. We brought it over.

Q. Where did you get it?

A. We got it at Nushagak; that water comes down from the hill, into barrels; the overflow goes into the barrels, and in this instance we filled up the barrels and took them back to Koggiung, and we used our barge that we had over in Neusig, and took them over as they were bigger, and then filled them up afterwards.

Q. That is, you took the barrels belonging to the

(Testimony of Oscar Jacobson.)

“Thayer,” and filled those with water and took them to Koggiung to the “Roy Somers”?

A. Yes, sir, we had some in the barrels, and then afterwards we had to pump it from the barrels into the iron tank.

Q. On the “Somers”?

A. Yes, sir.

Q. Where did the water come from up the hill, from a well or spring?

A. From a spring.

Q. Was the water that was used on the “Thayer” the same water?

A. Yes, sir. [136—82]

Cross-examination.

Mr. HUTTON.—Q. This list that you testified to in getting stores from Mittendorff, was not the list you wrote out, was it?

A. No, sir, he copied it down afterwards from my writing.

Q. He copied it?

A. Yes, sir.

Q. Do you mean to say he told you he could not write sufficient English enough, and that you wrote it for him, and that he copied it afterwards in English?

A. Yes, sir; he asked me to write it down at his dictation, and then after that he wanted to copy it down from my writing.

Q. You wrote it in English first?

A. Yes, sir.

Q. And then he wrote it in English?

A. Yes, sir.

Q. Although he told you he could not write good enough English?

A. Can't he copy?

Q. You were sort of superintending for Mr. Nel-

(Testimony of Oscar Jacobson.)

son up there in his absence? A. No, sir.

Q. You had charge of the whole fishing station?

A. No, sir, I did not.

Q. That is, anybody who wanted anything had to go to you didn't they?

A. We were the only ones going to this place.

Q. I mean when Captain Nelson was absent you looked after things for him?

A. No, sir, not exactly; I had to bring the water out, and I did a good many things like that, and see the barrels were stowed right, but I had no authority over the fellows otherwise.

Q. You had to do the ordering? A. Yes, sir.

Q. For the stores? A. Yes, sir, I bought them.

Q. Did you ever check up to see how much was on board? A. No, sir.

Q. You never checked up to see how much went aboard of the "Roy [137—83] Somers"?

A. No, sir.

Q. Or how much he had left?

A. I was not running that schooner.

Q. But you did not do it, as a matter of fact?

A. No, sir.

The COURT.—Q. Did you look after the stores on your own vessel?

A. The beach boss looked after that.

Q. Did you pay any attention to it? A. I did.

Q. To see what provisions you had?

A. But he was doing it principally.

Q. Do I understand from you that the ship's master leaves port without knowing what provisions he has on board?

(Testimony of Carl Ek.)

A. Up in Alaska it is not the same as when you are running on the coast or anywheres else. When I am on a trip on the coast or anywheres else, then I am the boss as long as I am on board the ship, and there is nobody else who has got anything to say; when the boss goes up with me to Alaska he has more to say than I have.

Q. Independently of any boss, would you leave Alaska without sufficient provisions?

A. I speak to the cook to find out if he has enough, and he had enough.

Q. You had enough? A. Yes, sir.

[Testimony of Carl Ek, for Respondent.]

CARL EK, called for the respondent, sworn.

Mr. CAMPBELL.—Q. Could you hear the testimony just given by Captain Jacobson about the delivering of provisions from Nushagak?

A. Yes, sir.

Q. Were you the Mr. Ek who was engineer of the launch?

A. Yes, sir, I was the engineer of the launch.

Q. Were or were not those provisions which were ordered from [138—84] Mittendorff's store delivered to the "Roy Somers"?

A. Yes, sir, they were delivered to the "Roy Somers"; some of them was delivered on the wharf and some of them was delivered on the "Roy Somers."

Q. Did you have anything to do with the bringing of water? A. Yes, sir.

Q. Were you the engineer of the launch?

(Testimony of Carl Ek.)

A. Yes, sir.

Q. Did you look after the water at all?

A. No, sir.

Q. This morning, Mr. Swanson testified that there was a shortage of provisions; is that true?

A. He told me there were certain things that he did not receive.

Q. What?

A. For instance he ordered split peas and did not receive them.

Q. How long was that before the "Roy Somers" sailed? A. About 4 days, 4 or 5 days.

Q. Was any trip made to Nushagak after that time? A. No, sir.

Q. Did you get any peas from the "Thayer"?

A. Yes, sir, the cook, Mr. Swanson, he told me to ask the other cook in the other—in the other place if he had gotten his split peas by mistake, and I asked him what he told me, and I asked him if he had any; so I got some split peas and I brought them back to Harry Swanson and he seemed to be satisfied.

Q. Did you come down on the "Somers"?

A. No, sir, I came down on the steamer "North Star" from Seattle.

Q. That is one of the Northwestern Fish Company's boats?

A. It belongs to Libby, McNeil & Libby.

Mr. CAMPBELL.—That is all.

Cross-examination.

Mr. HUTTON.—Q. Who wrote out the quantities on the order, do you know?

(Testimony of Carl Ek.)

A. I do not. [139—85]

Q. Who did you get the order from?

A. I did not get any order.

Q. How did you come to get the stuff?

A. I was the engineer on the launch, and the launch went over to get the supplies from Nushagak, to take them to Koggiung, and I was handling the unloading.

Q. You do not know how the order got to Nushagak? A. No, sir, I do not.

Q. Who sent you up there?

A. Well, I do not know; Captain Nelson, I suppose.

Q. Captain Nelson was not there?

A. Yes, sir, he was in Nushagak that time.

Q. Who sent you over for them?

A. The launch was laying alongside, and we had to discharge it on account of the launch was going some other place.

Q. You do not know just who fixed the quantity of supplies that came from Mittendorf's store in Nushagak? A. No, sir.

Q. All you know is it was handed to you there and to take it to the "Roy Somers"? A. Yes, sir.

[Testimony of Nils Anderson, for Respondent.]

NILS ANDERSON called for the respondent, sworn.

Mr. CAMPBELL.—Q. Were you on the "Roy Somers" going up last year? A. Yes, sir.

Q. Did you have anything to do with the preparing of the water-casks in San Francisco?

(Testimony of Nils Anderson.)

A. Yes, sir.

Q. Will you tell the Court what you did?

A. We took out the heads of the casks and scrubbed them off, brushed them, and then we filled them with water and they stood a few days, and after that we dumped out that water, scrubbed them and filled them up again; there was eight casks, and they held [140—86] about 90 gallons apiece, and that water lasted for 20 days going up, without touching anything else, except the drinking water in the big tank aft.

Q. Was there anything wrong with the water?

A. The water was clear. You could taste a little bit, but not much; it was not bad.

Q. Did you have anything to do with filling the barrels and casks? A. I filled them.

Q. How did you do that?

A. We got the barrels over there at Neusig.

Q. At Neusig?

A. Yes, sir, and we filled the barrels up with water and sent them over; that water that we got in Nushagak, I do not think there is any better water in Alaska.

Q. Where did you get it from, a spring or well?

A. The water was gotten from a spring up on the hill.

Mr. CAMPBELL.—That is all.

Cross-examination.

Mr. HUTTON.—Q. The water was bad coming down?

A. I do not know; I was not on the ship coming down.

[Testimony of John Englund, for Respondent.]

JOHN ENGLUND, called for the respondent, sworn.

Mr. CAMPBELL.—Q. Were you a fisherman on board the “Roy Somers”?

A. No, sir, I was boss, foreman.

Q. Of the fishermen? A. Yes, sir.

Q. Did you come down on her? A. Yes, sir.

Q. What was your work as foreman?

A. I was doing all the painting and carpentering.

Q. Whereabouts did you eat,—with the sailors?

A. I eat with the cooper and mess-boy.

Q. What can you say as to whether or not there was any shortage of food on the voyage?

A. No, sir. [141—87]

Q. Was there or was there not?

A. There was not.

Q. What can you say as to the quality of food, as to its being good or bad food?

A. It was all right.

Q. Was there any day on the voyage that you were out of coffee or tea, that you know of?

A. One day.

Q. Did you have any corned beef and pork on the way down?

A. Yes, sir, we had, but at all the way down; we had beef all the way down.

Q. You had beef all the way down?

A. Yes, sir.

Q. Were you compelled to use or drink the water on the way down that was bad; did you have any

(Testimony of John Englund.)

bad water? A. No, sir.

Q. Did you notice the water was bad at any time?

A. No, sir, I did not notice it.

Q. Did you hear any complaint among the crew about the food or there being bad water, or that there was not enough of it? A. No, sir.

Q. Were you around on deck on the way down?

A. Very little.

Mr. CAMPBELL.—That is all.

Cross-examination.

Mr. HUTTON.—Q. There were other things besides coffee to drink, were there not?

A. They run out all right.

Q. You run out of other things besides coffee to drink? Did you run out of rice? A. Yes, sir.

Q. Did you run out of beans? A. Yes, sir.

Q. You know that that bad water was used for cooking?

A. No, sir, I did not know it was bad water.

Q. You know you ran out of canned peas?

A. Yes, sir.

Q. You know you ran out of fruit, don't you?

A. Yes, sir, we ran out of fruit.

Mr. HUTTON.—That is all. [142—88]

[Testimony of W. H. Stirling, for Respondent.]

W. H. STIRLING, called for respondent, sworn.

Mr. CAMPBELL.—Q. Were you in the employ of Mr. A. H. Mittendorff at Nushagak, Alaska, in July of last year? A. Yes, sir.

Q. Did you receive from Captain Jacobson any order for provisions to go aboard the schooner "Roy

(Testimony of W. H. Stirling.)

Somers'' for her voyage down to San Francisco?

A. No, sir.

Q. From whom did you receive any order?

A. I merely made out the bill; I was merely Mr. Mittendorff's bookkeeper and made out the bill; I had nothing to do with the handling.

Q. Were there any provisions sold to Mr. Nelson that went to the schooner "Roy Somers" at Koggiung?

A. There was several different orders during the summer, on which we had instructions to mark in case the goods went to Koggiung, they were marked with a diamond "K" and the other goods went to Neusig; outside of that I could not state.

Q. Can you recall what the total bill was for the goods that Nelson incurred at Mittendorff's store during the summer? A. I cannot offhand.

Q. I will hand you a series of bills, and ask you whether or not these bills were made out by you?

A. All these.

Q. What can you say of these others that I hand you? A. These were made out by myself.

Q. You made those out yourself? A. Yes, sir.

Q. Do you know whether or not the goods called for in these bills were delivered to Mr. Nelson's vessels?

A. I have every reason to believe they were.

Q. Who was in the store, Mr. Mittendorff's store, at the time?

A. Mr. Mittendorff was there, and also two men that were working for him. [143—89]

(Testimony of W. H. Stirling.)

Q. Will you take these bills and point out on those the provisions that went to Koggiung, and those that went to Neusig?

A. These bills cover the bills that went to Neusig; this one covers the goods that went to Koggiung, and I do not know where the others went.

Q. I hand you the bill which you say went to Neusig, marked July 24th, and ask you whether those goods went to Koggiung. A. I do not know.

Q. Were you in the habit of making out your bills with a diamond "K" when the goods went to Koggiung? A. Those were my instructions.

Q. Were all these bills paid by Mr. Nelson?

A. They are so indorsed; there were several of them that were paid in Nushagak by draft.

Q. Is that your signature on these bills, W. H. Stirling? A. Yes, sir, that is my signature.

Mr. CAMPBELL.—I should like to offer in evidence the bill that was intended as the Koggiung bill.

Mr. HUTTON.—I do not think the witness has clearly identified them.

The COURT.—One bill he identified very clearly.

A. This is the last bill, I believe, as I remember it at any rate, for goods that Mr. Nelson ordered that were to go to Koggiung.

The COURT.—Q. What are the dates of the items marked "K"?

Mr. CAMPBELL.—There are two bills; one dated July 24th, the other July 29th.

The COURT.—Q. When did the "Somers" leave Alaska?

(Testimony of W. H. Stirling.)

A. On August 9th.

Mr. CAMPBELL.—I will recall Mr. Soland for a minute. [144—90]

[Testimony of L. Soland, for Respondent
(Recalled)].

L. SOLAND, recalled.

Mr. CAMPBELL.—Q. When did you leave Alaska? A. The 9th of August.

[Testimony of W. H. Stirling, for Respondent
(Recalled)].

W. H. STIRLING, recalled.

Mr. CAMPBELL.—I will simply offer in evidence that last bill. That is all.

(The bill is marked Respondent's Exhibit "B.")

Cross-examination.

Mr. HUTTON.—Q. What is that one?

A. I could not say.

Mr. HUTTON.—I think that is the one; it is dated July the 29th. The vessel left August 9th. The other one is too old.

Mr. CAMPBELL.—You do not know, you were not there; this does not contain the diamond "K" on it.

The WITNESS.—I do not know where this is from.

Mr. HUTTON.—Q. You do not know anything about that?

A. That I made the bill out. I do not know where the goods were going.

Q. This shows that there was a little, \$50 worth of

(Testimony of W. H. Stirling.)

food went to Koggiung about August 4th; is that correct?

Mr. CAMPBELL.—What one is that?

Mr. HUTTON.—This is the one the Court had.

The COURT.—This bill is dated July 24.

Mr. HUTTON.—This is the other one.

Mr. CAMPBELL.—This is the one the witness says he cannot identify.

Mr. HUTTON.—Q. What is the total of Mr. Nelson's bill up [145—91] there, do you know?

A. I could not say offhand. Aside from that bill I had \$1084.10. I do not know anything about that other bill.

Q. Assuming that the "K" on those bills means Koggiung, what is the total of that amount that went to Koggiung?

Mr. CAMPBELL.—That is also assuming that is a complete set of all the bills; whether or not it is, I do not know.

A. I only find this one bill marked "K"; the total of that is \$172.81. That is the only one I see marked "K."

Mr. HUTTON.—Q. Assuming that "K" means Koggiung, what is the total of that amount that went to Koggiung? A. \$172.81, I believe it was.

Q. The other was marked "Neusig"?

A. Yes, sir.

Q. Mr. Mittendorff had a pretty well supplied store up there? A. Yes, sir.

Q. That is, he had beans, rice and canned meat?

A. Yes, sir.

(Testimony of W. H. Stirling.)

Q. And beef, canned beef? A. Yes, sir.

Q. He had a large store?

A. Yes, sir. For a country place pretty good size.

Q. Does he supply much of the territory up there?

A. Pretty extensive.

Q. How large a territory?

A. There are several trading stations that he supplies, several outlying trading stations, and besides that he supplies Nushagak.

Q. All the year around? A. Yes, sir.

Q. He supplies oils and things of that kind?

A. Yes, sir.

Q. A general store? A. Yes, sir.

Q. And clothing? A. Yes, sir.

Mr. HUTTON.—That is all.

Mr. CAMPBELL.—Q. It is a trading place in Alaska? A. Yes, sir.

Mr. CAMPBELL.—That is all. [146—92]

[Testimony of A. H. Mittendorff, for Respondent.]

A. H. MITTENDORF, called for the respondent, sworn.

Mr. CAMPBELL.—Q. Are you the Mr. Mittendorff who has been referred to as being the owner of the store at Nushagak, Alaska? A. Yes, sir.

Q. Do you know Mr. B. M. Nelson?

A. For quite a number of years.

Q. Were you at your store in July, 1914, at the time Mr. Nelson left for the outside?

A. Just a few hours ahead of time, before he left; in fact, he was at my house.

(Testimony of A. H. Mittendorff.)

Q. How long was he at Nushagak before taking a steamer?

A. I could not tell you exactly; a few hours; six hours.

Q. During that time, or at any other time did Mr. Nelson ever place any restrictions on the quantity of provisions you were to furnish these vessels?

A. No, sir, he did not.

Q. Was any discussion had between you at that time as to the quantity of provisions which were to be furnished to the "Somers" or "Thayer"?

A. The only thing I can say is Mr. Nelson came in just a few days before he went away, he came in with Mr. Jacobson, and he informed me and Captain Jacobson, also, that in case his men were short of any provisions whatsoever, to get it from me, from my store; that is the word he left. A few days afterwards Captain Jacobson came to my store with a list. I looked the list over and I left it to one of the men there, I gave it to him and told him to make it out for Captain Jacobson, and after everything was done I came over, I says, "Have you fellows filled out Captain Jacobson's order," They said "Yes." I said "Is that all he wants?" And they put it aboard the launch and that is all I know about it.

Q. Can you testify as to whether or not this bill of goods was goods that was supplied to the schooner "Roy Somers"?

A. No, sir, I could not testify that; I can testify what I put [147—93] on board the launch.

Q. Referring to this bill, Respondent's Exhibit

(Testimony of A. H. Mittendorff.)

“B,” did Captain Jacobson ever hand you a list calling for the goods which are mentioned in this bill?

A. I cannot recall; there is all kinds of people come into my store, and I cannot tell myself; I have 4 or 5 men in my store besides quite a number of outside men and I could not tell.

Mr. CAMPBELL.—That is all.

Mr. HUTTON.—No questions.

Mr. CAMPBELL.—With the permission of the Court I will recall Captain Jacobson for a minute.

**[Testimony of Oscar Jacobson, for Respondent
(Recalled)]**

OSCAR JACOBSON, recalled.

Mr. CAMPBELL.—Q. Captain Jacobson, will you look at this bill and tell the Court whether or not you can say that the goods mentioned therein are the goods that were contained in this order which the cook gave you and which you gave to Mittendorff's store?

A. He did not get the split peas; that is what he complained to me he did not get.

Q. State whether or not the list of articles contained there is the list that the cook made out and gave you? A. Yes, sir.

Q. And who did you give the list to in the store?

A. Mr. Mittendorff.

Q. Who was just on the stand? A. Yes, sir.

Q. Did you get these goods and put them on the launch?

A. We put them on the lighter to the Neusig boat.

Q. Did you take these goods back?

(Testimony of Oscar Jacobson.)

A. Yes, sir, and when we came to Neusig we put them on the launch and took them to Koggiung.

Mr. HUTTON.—That is not a very generous bill of goods for 26 men on a voyage.

A. I was not the cook. [148—94].

Q. So you pass it all up to the cook?

A. I had nothing to do with that.

Q. Don't you know the cook is simply a person about the ship who has got to do as he is told?

A. I had the steam schooner and when I came to the place where I got the cook's order, he gave me a requisition of what he needed, and I trusted it to him that he was going to have enough to take him through to the next port.

Q. Suppose the cook had ordered \$1000 worth of stuff—

The COURT.—If he orders too much they will not stand for it, and if he orders a little they do not care.

The WITNESS.—If the order is within reason; \$1,000 would not be within reason.

Mr. CAMPBELL.—That is all the evidence we have got, if the Court please.

[Testimony of I. N. Hylen, for Libelants.]

I. N. HYLEN, called for the libelants, sworn.

Mr. HUTTON.—Q. You are familiar with this fishing business, are you not? A. Yes, sir.

Q. And you are a fisherman, and have been one a number of years? A. Yes, sir.

Q. And you have been up in Alaska fishing?

A. Yes, sir.

Q. Do you know anything about the kind of pota-

(Testimony of I. N. Hylen.)

toes usually carried by fishing vessels that go to Alaska?

A. Well, they carry all kinds; the Alaska Packers make a practice of getting new potatoes from Australian just before going to Alaska; they get them fresh.

Q. Dug after the winter months? A. Yes, sir.

Q. There has been more or less trouble with potatoes going to Alaska?

A. There has been shortages of potatoes. [149—95]

Q. Do you know of any concerns that do that besides the Alaska Packers?

A. I do not know any other than them.

Mr. HUTTON.—That is all.

Cross-examination.

Mr. CAMPBELL.—Q. You never have been on one of the Alaska Packers' vessels to Alaska, have you? A. Yes, sir.

Q. Since they have been using Australian potatoes?

A. Not since they have been using Australian potatoes.

Q. So you have no knowledge yourself as to how long the Australian potatoes keep, or as to how they compare with the potatoes grown in this country?

A. Only that I have been told.

Q. They are even experimenting now with carrying the potatoes? A. Yes, sir.

Mr. CAMPBELL.—That is all.

[**Testimony of Harry Swanson, for Libelants
(Recalled in Rebuttal).**]

HARRY SWANSON, recalled in rebuttal.

Mr. HUTTON.—Q. Did you tell the captain of the “Roy Somers” or anybody else that you had 35 days’ provisions on board? That is, at the time you left Alaska?

A. Not that I know of; not that I remember; I told the fishermen, they knew we were short of provisions; they knew we were short when we went to sea. I told all the same thing, “we starved to death coming down.”

Q. Who did you tell that to?

A. The fishermen.

Q. Did you tell the captain of the “Roy Somers”?

A. He know it too; he know we had very little provisions.

Q. Did you say anything to him about how many days’ food you had on board?

A. No, sir, not that I remember.

Q. Did you say anything to Captain Jacobson or anybody else about the amount of food you had on board. [150—96]

A. Some of them say we come down in 12 or 15 or 18 days, and some of them say it takes 6 or 7 weeks to get home. Everybody is happy when we come down to Frisco.

Q. When did the water first begin to get bad?

A. It got bad as soon as we came out in Bering Sea.

Q. And it stayed bad how long?

(Testimony of Harry Swanson.)

A. It stayed bad till we came to Frisco. Even the captain of the "Roy Somers" he was puking over the rail after drinking coffee; that is what he say to the wheelman; the wheelman came and told me.

Q. You saw him vomiting over the rail?

A. He was puking over the rail; he was doing it after drinking the coffee with the bad water.

Mr. HUTTON.—That is all.

Cross-examination.

Mr. CAMPBELL.—Q. Where did you get the water that you made the coffee from? Where did you get the water, out of the iron tank, from which you made the coffee?

A. Not always; there was water there; he could not get the water always from the tank, so he give me water from the rotten cask, and I had to keep it in a barrel, and I take the water from a barrel.

Q. You said that you still had water in the iron tank when you reached San Francisco?

A. Yes, sir.

Q. That was not true? A. Yes, sir.

Q. And you also said this morning that the water in the iron tank was good water? A. Yes, sir.

Q. Why were you using rotten water, as you call it, and making coffee with it, when you had good water in the iron tank?

A. I had no right to use the water in the tank. They gave me my water; I had to use what I was given. [151—97]

Q. Did you go to the captain of the ship and ask

(Testimony of Harry Swanson.)

him to give you the good water out of the iron tank?

A. No, sir, I did not; he told me always to be careful with the water; he said we have so many days out, and for me to be careful with the water, and I had to use the water they gave me.

Mr. CAMPBELL.—That is all.

Mr. HUTTON.—Q. You kept a barrel of water at the galley?

A. Yes, sir, and the water-tender he put water in there each day.

Q. You had to use the water from your own barrel that was given to you?

A. Yes, sir, there was bad water, and then maybe he give me a bucket of good water; and I would use that; I would use that for coffee or tea; when that was gone I had to use the rotten water; I could not do anything else; I had to do the best I could on that vessel; it was the worst ship I was ever on.

Mr. CAMPBELL.—Q. But you did not complain to the master?

A. What is the use of complaining; he told me I had to be careful with the water, and with the provisions, and we were starving.

Mr. CAMPBELL.—That is all.

Mr. HUTTON.—I offer the shipping articles in evidence and ask that they be marked Libelants' Exhibit No. 1.

(The papers are marked Libelants' Exhibit No. 1.)

Mr. HUTTON.—That is our case.

Mr. CAMPBELL.—We will recall Captain Soland.

[Testimony of L. Soland, for Libelant (Recalled in Surrebuttal).]

L. SOLAND, recalled in surrebuttal:

Mr. CAMPBELL.—Q. Mr. Swanson has just testified that you were [152—98] made sick and were vomiting over the side of the ship because of the coffee you drank; I will ask you whether or not that is true. A. I never did.

Q. Any time on that voyage did you vomit over the side?

A. I did once, when I swallowed some tobacco.

Q. Did you tell him it was due to bad water in the coffee? A. No, sir.

Q. Was it due to that? A. No, sir.

Mr. CAMPBELL.—That is all.

Mr. HUTTON.—No questions.

Testimony closed.

[Endorsed]: Filed Sep. 24, 1915. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [153—98½]

In the District Court of the United States, in and for the Northern District of California, First Division.

IN ADMIRALTY—No. 15,709.

CARL PATSEL, et al.,

Libelants,

vs.

P. M. NELSON,

Respondent.

**Order to Enter Decree in Favor of Each Libelant for
the Sum of \$65.50.**

H. W. HUTTON, Esq., Proctor for Libelants.

D. A. McLEOD, Esq. and McCUTCHEN, OL-
NEY & WILLARD, Proctors for Respond-
ent.

Upon the evidence it is fairly clear to me that li-
belants are entitled to recover the following amounts
for failure to provide:

Water	\$14.50
Potatoes or yams.....	29.00
Rice	6.00
Onions	8.00
Beans	2.00
Salt pork	6.00

Total..... 65.50

For which sum a decree will be entered in favor of
each libelant.

May 27th, 1915.

M. T. DOOLING,
Judge.

[Endorsed]: Filed May, 27, 1915. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [154]

*In the District Court of the United States, in and
for the Northern District of California, First Di-
vision.*

IN ADMIRALTY—No. 15,709.

CARL PATSEL, et al.,

Libellants,

vs.

P. M. NELSON,

Respondent.

Decree.

This cause having been heard on the pleadings and proofs, and due deliberation being had, it is now ordered adjudged and decreed, that for and on account of the matters set forth in the pleadings and shown by the proofs herein, that the libelants have and recover from the respondent for the shortage of provisions mentioned in the libel and shown by the proofs herein, the following amounts respectively :

Carle Patsel, the sum of Sixty-five and 50/100 (\$65.50) dollars.

W. Sandstrom, the sum of Sixty-five and 50/100 (\$65.50) dollars.

Gust. Johnson, the sum of Sixty-five and 50/100 (\$65.50) dollars.

Chas. Nelson, the sum of Sixty-five and 50/100 (\$65.50) dollars.

A. Sandstrom, the sum of Sixty-five and 50/100 (\$65.50) dollars.

M. W. Johnson, the sum of Sixty-five and 50/100 (\$65.50) dollars.

Peter Johnson, the sum of Sixty-five and 50/100 (\$65.50) dollars.

Hugo Lundgren, the sum of Sixty-five and 50/100 (\$65.50) dollars.

Harrray Swanson, the sum of Sixty-five and 50/100 (\$65.50) dollars.

N. P. Johnson, the sum of Sixty-five and 50/100 (\$65.50) dollars.

Gust Peterson, the sum of Sixty-five and 50/100 (\$65.50) dollars.

Charles Johnson, the sum of Sixty-five and 50/100 (\$65.50) dollars.

John Anderson, the sum of Sixty-five and 50/100 (\$65.50) dollars.

Knut Anderson, the sum of Sixty-five and 50/100 (\$65.50) dollars. [155]

A. Petterson, the sum of Sixty-five and 50/100 (\$65.50) dollars.

Albert Johnson, the sum of Sixty-five and 50/100 (\$65.50) dollars.

Carl Anderson, the sum of Sixty-five and 50/100 (\$65.50) dollars.

M. Nilson, the sum of Sixty-five and 50/100 (\$65.50) dollars.

Josef Nilson, the sum of Sixty-five and 50/100 (\$65.50) dollars.

Johan Karlsen, the sum of Sixty-five and 50/100 (\$65.50) dollars.

Together with their costs to be taxed, and interest at the rate of six per cent per annum from the date of this decree.

Dated June 7, 1915.

M. T. DOOLING,
Judge.

[Endorsed]: Filed Jun. 7, 1915. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk.

Entered in Vol. 6 Judg. and Decrees at page 285.
[156]

*In the District Court of the United States, in and for
the Northern District of California, First Di-
vision.*

IN ADMIRALTY.

CARL PATSEL, W. SANDSTREN, GUST JOHN-
SON, CHAS. NELSON, A. SANDSTRAN,
M. W. JOHNSON, PETER JOHNSON,
HUGO LUNDGREN, HARRY SWANSON,
N. P. JOHNSON, GUST PETERSON,
CHARLES JOHNSON, JOHN ANDER-
SON, KNUT ANDERSON, A. PETTER-
SON, ALBERT JOHNSON, CARL ANDER-
SON, M. NILSSON, JOSEF NILSEN, and
JOHAN KARLSEN, SIGURD J. NILS-
SON,

Libelants,

vs.

P. M. NELSON,

Respondent.

Notice of Appeal.

To the Clerk of the Above-entitled Court, and to
Libelants in Said Cause, and to H. W. Hutton,
Their Proctor:

You and each of you will please hereby take notice

that P. M. Nelson, respondent herein, hereby appeals from the final decree made and entered herein in this cause on the 7th day of June, 1915, to the next United States Circuit Court of Appeals for the Ninth Circuit to be holden in and for said circuit at the City and County of San Francisco, State of California.

Dated: San Francisco, July 13th, 1915.

IRA. A. CAMPBELL,
DUNCAN A. McLEOD,
Proctors for Respondent.

Service of the within notice of appeal and receipt of a copy is hereby admitted this 13th day of July, 1915.

H. W. HUTTON,
Proctor for Libelants.

[Endorsed]: Filed Jul. 13, 1915. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [157]

*In the United States District Court, in and for the
Northern District of California, First Division.*

IN ADMIRALTY.

CARL PATSEL, W. SANDTREN, GUST. JOHNSON, CHAS. NELSON, A. SANDSTRAN, M. W. JOHNSON, PETER JOHNSON, HUGO LUNDGREN, HARRY SWANSON, N. P. JOHNSON, GUST. PETERSON, CHARLES JOHNSON, JOHN ANDERSON, KNUT ANDERSON, A. PETTER-

SON, ALBERT JOHNSON, CARL ANDERSON, M. NILSSON, JOSEF NILSEN and JOHAN KARLSEN, SIGURD J. NILSSON,
Libelants,

vs.

P. M. NELSON,

Respondent.

Assignment of Errors.

Comes now P. M. Nelson, respondent and appellant herein and says:

That in the record, opinion, decision and final decree in said cause there is manifest and material error, and said appellant now makes, files and presents the following assignment of errors, on which he relies, to wit:

1. The District Court erred in entering the decree herein, of date the 7th day of June, 1915, ordering, adjudging and decreeing that the libelants and each of them in said cause do have and recover the sum of sixty-five and 50/100 (65.50) dollars, with interest thereon from the date of said decree, together with costs.

2. That the District Court erred in overruling respondent's exceptions to the libel herein.

3. That the District Court erred in holding and deciding that the duty rested upon respondent to provide the scale of provisions appended to Section 4612 of the Revised Statutes of the United States.

[158]

4. That the District Court erred in not holding and deciding that the only duty resting upon respondent to furnish provisions was imposed by Section

4564 of the Revised Statutes of the United States.

5. That the District Court erred in not holding and deciding that respondent complied with the duties and obligations imposed by Section 4564 of the Revised Statutes of the United States by providing a sufficient quantity of stores to last for the voyage of the “Roy Somers.”

6. That the District Court erred in holding and deciding that libelants and each of them were seamen.

7. That the District Court erred in not holding and deciding that libelants and each of them were fishermen.

8. That the District Court erred in not holding and deciding that the “Roy Somers” was a fishing vessel; and that the libelants and each of them, as fishermen, were to share in the profits of the voyage and be paid according to the season’s catch.

9. That the District Court erred in holding and deciding that said libelants and each of them were entitled to the sum of sixty-five and 50/100 (65.50) dollars.

10. That the District Court erred in holding and deciding that respondent failed to provide libelants and each of them with water, potatoes, or yams, rice, onions, beans, and salt pork.

11. That the District Court erred in holding and deciding that there was a failure to provide water, and that libelants are, and each of them is, entitled to fourteen and 50/100 (14.50) dollars, or any other sum, for the failure of respondent to provide water.

12. That the District Court erred in holding and deciding that there was a failure to provide potatoes

or yams, and that libelants are, and each of them is, entitled to twenty-nine (29.00) dollars, [159] or any other sum, for the failure of respondent to provide potatoes or yams.

13. That the District Court erred in holding and deciding that there was a failure to provide rice, and that libelants are, and each of them is, entitled to six (6.00) dollars, or any other sum, for the failure of respondent to provide rice.

14. That the District Court erred in holding and deciding that there was a failure to provide onions, and that libelants are, and each of them is, entitled to eight (8.00) dollars, or any other sum, for the failure of respondent to provide onions.

15. That the District Court erred in holding and deciding that there was a failure to provide beans, and that libelants are, and each of them is, entitled to two (2.00) dollars, or any other sum, for the failure of respondent to provide beans.

16. That the District Court erred in holding and deciding that there was a failure to provide salt pork, and that libelants are, and each of them is, entitled to six (6.00) dollars, or any other sum, for the failure of respondent to provide salt pork.

17. That the District Court erred in not holding and deciding that said respondent provided the substitute provisions provided for in the scale appended to Section 4612 of the Revised Statutes of the United States.

In order that the foregoing assignment of errors may be and appear of record, said appellant files and presents the same, and prays that such disposition

be made thereof and the whole of said cause as in accordance with the law and the Statutes of the United States in such cases made and provided, and that said appellant prays a reversal of the decree herein heretofore made and entered in the above cause and appealed from, [160] and that he may have such other and further relief as shall be meet and equitable.

DUNCAN A. McLEOD,
McCUTCHEN, OLNEY & WILLARD,
Proctors for Respondent and Appellant.

[Endorsed]: Filed Sep. 2, 1915. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [161]

*In the District Court of the United States, in and for
the Northern District of California, First Division.*

IN ADMIRALTY.

CARL PATSEL et al.,

Libelants,

vs.

P. M. NELSON,

Respondent.

**Stipulation and Order as to Original Exhibits to be
Used on Appeal Herein.**

IT IS HEREBY STIPULATED AND AGREED
by and between the parties hereto that all of the exhibits introduced in the depositions taken before the Commissioner in the above-entitled cause, and all exhibits introduced at the hearing before the above-entitled court, may be sent up to the United States

Circuit Court of Appeals for the Ninth Circuit as original exhibits for the Apostles on Appeal, and need not be printed in said Court of Appeals.

Dated; August 9th, 1915.

H. W. HUTTON,

Proctor for Libelants.

IRA A. CAMPBELL,

McCUTCHEN, OLNEY & WILLARD,

Proctors for Respondent.

It is so ordered by the Court. Dated: August 9th, 1915.

M. T. DOOLING,

Judge.

[Endorsed]: Filed Aug. 9, 1915. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [162]

In the District Court of the United States, in and for the Northern District of California, First Division.

IN ADMIRALTY.

CARL PATSEL, et al.,

Libelants,

vs.

P. M. NELSON,

Respondent.

Stipulation and Order Extending Time to (September 6, 1915 to) File Apostles on Appeal.

It is hereby stipulated and agreed that the time for printing the record and filing and docketing this cause on appeal in the United States Circuit Court of Appeals, for the Ninth Circuit, may be extended to and including the 6th day of September, 1915;

It is further stipulated that said record shall be filed in the said Circuit Court of Appeals within said time as will cause said case to be placed upon the 1915 October term of said Circuit Court of Appeals.

H. W. HUTTON,

Proctor for Libelants.

IRA A. CAMPBELL,

McCUTCHEN, OLNEY & WILLARD,

Proctors for Respondent.

Pursuant to the foregoing stipulation, it is hereby ordered that the time for printing the record and docketing this cause on file in the United States Circuit Court of Appeals, for the Ninth Circuit, be and the same is hereby enlarged and extended to and including the 6th day of September, 1915.

Dated: August 9, 1915.

M. T. DOOLING,

District Judge.

[Endorsed]: Filed Aug. 9, 1915. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [163]

**Certificate of Clerk U. S. District Court to Apostles
on Appeal.**

I, Walter B. Maling, Clerk of the District Court of the United States for the Northern District of California, do hereby certify that the foregoing 163 pages, numbered from 1 to 163, inclusive, with the accompanying exhibits, three in number (transmitted separately in their original form), contain a full, true, and correct transcript of the records and proceedings as the same now remain on file and of record in the office of the clerk of said District Court,

in the cause entitled Carl Patsel et al., Libelants, vs. P. M. Nelson, Respondent, Number 15,709; which said Apostles on Appeal are prepared pursuant to and in accordance with "Praeceptum for Apostles on Appeal" (copy of which is embodied in this transcript), and the instructions of the proctors for respondent and appellant herein.

I further certify that the costs of preparing and certifying the foregoing Apostles on Appeal is the sum of Eighty-six Dollars and Thirty Cents (\$86.30) and that the same has been paid to me by the proctors for appellant herein.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court this 25th day of September, A. D. 1915.

WALTER B. MALING,

Clerk.

By C. W. Calbreath,

Deputy Clerk.

CMT

[Ten Cent Internal Revenue Stamp. Canceled 9/25/15. C. W. C.] [164]

[Endorsed]: No. 2662. United States Circuit Court of Appeals for the Ninth Circuit. P. M. Nelson, Appellant, vs. Carl Patsel, W. Sandstren, Gust. Johnson, Chas. Nelson, A. Sandstran, M. W. Johnson, Peter Johnson, Hugo Dundgren, Harry Swanson, N. P. Johnson, Gust. Peterson, Charles Johnson, John Anderson, Knut Anderson, A. Petterson, Albert Johnson, Carl Andersson, M. Nilsson, Josef Nilsen, Johan Karlsen, Sigurd I. Nilson, Appellees.

Apostles on Appeal. Upon Appeal from the United States District Court for the Northern District of California, First Division.

Filed September 25, 1915.

F. D. MONCKTON,

Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Paul P. O'Brien,
Deputy Clerk.

*In the United States Circuit Court of Appeals for
the Ninth Circuit.*

CARL PATSEL et al.,

Libelants,

vs.

P. M. NELSON,

Respondent.

**Order Extending Time (to September 16, 1915) to
File Apostles on Appeal.**

GOOD CAUSE APPEARING THEREFOR, it is hereby ordered that the time for printing the record and docketing this cause on appeal in the United States Circuit Court of Appeals for the Ninth Circuit be and the same is hereby enlarged and extended to and including the 16th day of September, 1915.

Dated: September 4, 1915.

WM. W. MORROW,

Judge.

[Endorsed]: United States Circuit Court of Appeals for the Ninth Circuit. Carl Patsel et al.,

Libelants, vs. P. M. Nelson, Respondent. Order Extending Time to File Apostles on Appeal. Filed Sep. 4, 1915. F. D. Monckton, Clerk.

*In the United States Circuit Court of Appeals for
the Ninth Circuit.*

CARL PATSEL et al.,

Libelants,

vs.

P. M. NELSON,

Respondent.

**Order Extending Time (to September 23, 1915) to
File Apostles on Appeal.**

GOOD CAUSE APPEARING THEREFOR, it is hereby ordered that the time for printing the record and docketing this cause on appeal in the United States Circuit Court of Appeals for the Ninth Circuit be and the same is hereby enlarged and extended to and including the 23d day of September, 1915.

Dated: September 15, 1915.

WM. W. MORROW,

Judge.

[Endorsed]: United States Circuit Court of Appeals for the Ninth Circuit. Carl Patsel et al., Libelants, vs. P. M. Nelson, Respondent. Order Extending Time to File Apostles on Appeal. Filed Sep. 16, 1915. F. D. Monckton, Clerk.

*In the United States Circuit Court of Appeals for
the Ninth Circuit.*

CARL PATSEL et al.,

Libelants,

vs.

P. M. NELSON,

Respondent.

**Order Extending Time (to September 25, 1915) to
File Apostles on Appeal.**

GOOD CAUSE APPEARING THEREFOR, it is hereby ordered that the time for preparing the record and filing and docketing this cause on appeal in the United States Circuit Court of Appeals for the Ninth Circuit be and the same is hereby enlarged and extended to and including the 25th day of September, 1915.

Dated: September 23, 1915.

WM. W. MORROW,

Judge.

[Endorsed]: United States Circuit Court of Appeals for the Ninth Circuit. Carl Patsel et al., Libelants, vs. P. M. Nelson, Respondent. Order Extending Time to File Apostles on Appeal. Filed Sep. 23, 1915. F. D. Monckton, Clerk.

No. 2662. United States Circuit Court of Appeals for the Ninth Circuit. Three Orders Under Rule 16 Enlarging Time to Sept. 25, 1915, to File Record Thereof and to Docket Case. Re-filed Sep. 25, 1915. F. D. Monckton, Clerk.

*In the United States Circuit Court of Appeals for
the Ninth Circuit.*

CARL PATSEL et al.,

Libelants,

vs.

P. M. NELSON,

Respondent.

**Stipulation and Order as to Original Exhibits to be
Used on Appeal.**

IT IS HEREBY STIPULATED AND AGREED by and between the parties hereto that all of the exhibits introduced in the depositions taken before the Commissioner in the above-entitled cause, and all exhibits introduced at the hearing before the District Court, may be sent up to the United States Circuit Court of Appeals for the Ninth Circuit as original exhibits for the Apostles on Appeal, and need not be printed in said Court of Appeals unless the Appellate Court otherwise orders.

Dated: 7th day of October, 1915.

H. W. HUTTON,

Proctor for Libelants.

D. A. McLEOD,

IRA A. CAMPBELL,

McCUTCHEN, OLNEY & WILLARD,

Proctors for Respondent.

IT IS SO ORDERED BY THE COURT.

WM. W. MORROW,

Judge.

Dated: Oct. 7, 1915.

[Endorsed]: No. 2662. United States Circuit Court of Appeals for the Ninth Circuit. Carl Patsel et al., Libelants, vs. P. M. Nelson, Respondent. Stipulation and Order as to Original Exhibits to be Used on Appeal Herein. Filed Oct. 7, 1915. F. D. Monckton, Clerk.

